IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ANTHONY MAYS, *et al.*,	)	
	)	
Plaintiffs-Petitioners,	)	
	)	Case No. 20-cv-2134
v.	)	
	)	The Hon. Matthew F. Kennelly
THOMAS J. DART, Sheriff of Cook County,	)	Emergency Judge
	)	
	)	The Hon. Robert Gettleman
Defendant-Respondent.	)	Presiding Judge

PLAINTIFFS' RENEWED MOTION FOR A PRELIMINARY INJUNCTION AND FOR LIMITED, EXPEDITED DISCOVERY

A third person has died in the jail after the entry of this Court's temporary restraining order. The Cook County Jail is currently the site of the largest single-site outbreak of COVID-19 in the country. The virus is spreading rapidly in the jail since the issuance of this Court's order,[1] and that is not surprising: People are sleeping within three feet of each other, eating and using showers in close proximity to each other, and touching the same surfaces. For counsel and the Court, casually speaking to a neighbor at arm's length or touching the pump at the gas station with an un-gloved hand are terrifying prospects; in the Cook County Jail, people are confined in near-constant contact with each other in dormitory settings, forced to forgo the social distancing that overwhelming scientific and medical consensus has led government officials to mandate—by emergency decrees

[1] As of April 9, 448 detainees and Sheriff's staff had tested positive for COVID-19. Two detainees have died since that date. As of April 13, 541 detainees and Sheriff's staff had tested positive for COVID-19. Injustice Watch, Cook County Jail Coronavirus Tracker, https://datastudio.google.com/u/0/reporting/1AI4THiXJ_6Nt-9NXwE0MfO_DUaa1Koxi/page/hcyJB?s=oQGghs5nYPk (last visited Apr. 14, 2020).

enforceable through criminal penalties—that the rest of us practice. These human beings are at grave risk.

In its April 9 temporary order, this Court concluded that full social distancing of detainees was not required because CDC guidance governing correctional facilities recognizes that "space limitations may require a departure from better social-distancing practices" and because the CDC acknowledged that correctional facilities must operate within their physical limitations for the purposes of that Agency's emergency guidance to them. "Order" (Doc. 48) at 24-25. Instead of ordering full social distancing—which may be impossible without reducing the population of the jail—this Court took the initial step of first requiring safer practices within the jail and, specifically, social distancing at intake. (*Id.*) Since the Court's order, it has become clear—as the evidence Plaintiffs proffer with this motion shows—that social distancing of detainees is the *only* way to prevent an intolerable risk to Plaintiffs' health and lives. One of two additional things is therefore true: either it is possible for the Sheriff to implement medically required social distancing at current population levels, and he must be ordered to do so; or it is not possible for the Sheriff to implement medically required social distancing at current population levels, and the jail's population must be decreased.

In light of this reality and the continued spread of the virus since the Complaint, Plaintiffs renew their ongoing request for a preliminary injunction and seek the following specific relief: (1) medical triage of vulnerable detainees and the implementation of social distancing, including but not limited to through transfer of detainees out of the Jail site at 2600 S. California; and (2) an emergency petition for habeas corpus on behalf of named Plaintiff Kenneth Foster and the class that he represents; and (3) narrow, targeted, and expedited discovery, *see* Ex. A and Part II(B), *infra*, which is necessary to determine whether the Sheriff is capable of complying with an

injunction requiring medical triage and social distancing and whether the Sheriff has complied with the Court's TRO.

Importantly, if this Court concludes that medically necessary social distancing is impossible given the current population in the jail, Plaintiffs request that this Court convene an emergency three-judge district Court as required by 18 U.S.C. § 3626(a)(3)(A) so that Plaintiffs may proceed before to a tribunal with the statutory authority to grant the relief that the U.S. Constitution demands that they receive. Time is of the essence and the moment is unprecedented. Whether the medically required measures are taken in the next several days will determine whether thousands of additional people contract COVID-19.

I. The Existing TRO is an Essential First Step but One That Will Not Fully Protect Against the Constitutional Violations in the Jail.

In its April 9 order, the Court required that several steps be taken to improve conditions in the Jail. Specifically, the Court required the Office of the Sheriff (a) to establish and implement a policy requiring prompt coronavirus testing of symptomatic detainees and, to the extent feasible and at medically appropriate times, detainees who have been exposed to confirmed positive coronavirus cases and to symptomatic detainees (Order at 34); (b) to enforce social distancing during the new detainee intake process, including suspending the use of bullpens to hold new detainees awaiting intake (Order at 35); (c) to provide soap and or hand sanitizer to all detainees in quantities sufficient to permit them to frequently clean their hands; to provide adequate sanitation supplies to enable staff and detainees to regularly sanitize surfaces and objects on which the virus could be present; and to create and implement a policy of frequent sanitation of objects and surfaces and of monitoring to ensure the sanitation takes place; and (d) to provide facemasks to all detainees who have been exposed to a case of coronavirus or to a symptomatic detainee—*i.e.,* all detainees in quarantine.

Unfortunately, the evidence available since the TRO establishes that these essential steps have not worked and cannot work to abate the spread of the disease. Two facts are of utmost importance to this point: First, COVID-19 presents a threat of serious illness, organ failure, and death, particularly to individuals with pre-existing medical vulnerabilities.[2] Second, the overwhelming scientific and medical consensus, as will be more fully described by Plaintiffs' experts, is that it is not possible to reduce the serious risk of COVID-19 infection without social distancing. The legal significance of these two facts, under binding precedent discussed below, is that requiring confinement under conditions that expose individuals to this serious risk is not constitutionally permissible. Only two options remain, then. Either Defendant is ordered to accomplish the social distancing that overwhelming evidence demands and that all of us are required to practice in our own lives, or Defendant is ordered to reduce the population of the jail until such distancing is possible.

II. Social Distancing Is Necessary to Prevent an Unreasonable Risk to the Class.

The only way to prevent a severe risk to Plaintiffs is to immediately implement medically required social distancing. Dr. Gregg Gonsalves, an epidemiologist at the Yale School of Medicine and School of Public Health, submits an expert declaration attached to this Motion. In it, he explains the risks that COVID-19 poses to the health of people in the jail. COVID-19, he testifies, can lead to "bilateral interstitial pneumonia, which causes partial or total collapse of the lung

[2] *See* Melissa Healy, Coronavirus infection may cause lasting damage throughout the body, doctors fear, Los Angeles Times (Apr. 10, 2020) https://www.latimes.com/science/story/2020-04-10/coronavirus-infection-can-do-lasting-damage-to-the-heart-liver ("[E]ven after patients who become severely ill have recovered and cleared the virus, physicians have begun seeing evidence of the infection's lingering effects," and describing many biological functions that had "failed to return to normal," including impaired liver function, and noting concern from cardiologists that "there will be long-term sequelae" form the disease); Tianbing Wang et al., Comorbidities and multi-organ injuries in the treatment of COVID-19, The Lancet, https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30558-4/fulltext (Mar. 21, 2020) (reporting clinical indications that COVID-19 is not only capable of causing pneumonia; it may also cause damage to other organs such as the heart, the liver, and the kidneys).

alveoli, making it difficult or impossible for patients to breathe. . . . COVID-19 can progress from a fever to life-threatening pneumonia with what are known as 'ground-glass opacities.'" Ex. G ¶ 2. In his expert opinion, the only way to prevent an "essentially uncontrolled" spread of this deadly virus is to require complete "social distancing" of inmates—that is, to keep them six feet apart from one another. *Compare id.* ¶ 16 ("Social distancing means, in essence, isolating oneself from other people . . . and generally staying at least 6-12 feet from other people."), *with id.* ¶ ("In my opinion, from an epidemiological perspective, ensuring that all detainees in Cook County Jail can socially distance from one another is the only way to prevent further, essentially uncontrolled, spread of the virus.").[3]

As discussed more fully below, the Constitution forbids jailing people in conditions that pose an "unreasonable" risk to their health where "the risk . . . is not one that today's society chooses to tolerate." *Helling v. McKinney*, 509 U.S. 25, 36 (1993). The mere fact that the CDC acknowledged in its guidance to jails that full social distancing may not be immediately feasible at current population levels does not affect the applicable constitutional principle. *Cf.* Edward J. Hanlon, "Proof of Unconstitutional Prison Conditions," 24 AMJUR POF 3d 467 § 7 ("Most courts have held that it is improper to attempt to assess whether a given occupancy level violates a pretrial detainee's Fourteenth Amendment rights or a prisoner's Eighth Amendment rights by reference to standards set by a professional organization or by expert testimony based on such standards.") (citing cases); *Moralis v. Fageole*, No. 06 C 2034, 2007 WL 2893652, at (CD. Ill.

[3] Plaintiffs' counsel has also worked with Professor Gonsalves to create a model that provides projections of the impact of COVID-19 within correctional facilities like the Cook County Jail based on the Jail's ability to implement social distancing. See Ex. D (Grady Declaration) (providing information about the creation of the Model); See also Ex. J (COVID-19 Incarceration Model) (being provided to the Court in its native Excel format via e-mail to the Court and counsel).

Sept. 28, 2007) (" [D]efendants cannot simply escape their duty to provide dental care to those detained in their jail by asserting [the United States Marshall Service agreement] does not authorize the treatment."). This is true for two reasons: First, the CDC never purported to declare that social distancing is *unnecessary*; it only concluded that *at current population levels* it may not be feasible. To this point, the CDC guidelines for correctional institutions specifically encourage correctional administrators to "work with local law enforcement and court officials" to "prevent over-crowding of correctional and detention facilities,"[4] and in other settings, the CDC recommends wholesale cancellation of schools, closures of nursing facilities, closing of business offices, and cancellation of "faith-based gatherings of any size."[5] Indeed as one court observed,

> Though the CDC has recommended public health guidance for detention facilities . . . these measures are inadequate to sufficiently decrease the substantial likelihood that Petitioner will contract COVID-19. As prison officials are beginning to recognize around the country, even the most stringent precautionary measures—short of limiting the detained population itself—simply cannot protect detainees from the extremely high risk of contracting this unique and deadly disease.

Malam v. Barr, No. 20-10829, 2020 WL 1672662, at *8 (E.D. Mich. Apr. 5, 2020), as amended (Apr. 6, 2020). Second, there is no doubt that the risk of exposure to COVID-19 even in the *general public* is one to which society is unwilling to subject itself as a whole. Governors across the country, including in Illinois, have mandated social distancing and are using criminal laws to enforce that mandate.

[4] CDC, Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities, at 6 (Mar. 23, 2020), https://www.cdc.gov/coronavirus/2019-cov/downloads/guidance-correctional-detention.pdf.

[5] CDC, Implementation of Mitigation Strategies for Communities with Local COVID-19 Transmission, https://www.cdc.gov/coronavirus/2019-ncov/downloads/community-mitigation-strategy.pdf (last visited April 14, 2020) ("substantial" spread recommendations).

At a hearing, Plaintiffs will present testimony from Dr. Homer Venters, a correctional health expert and epidemiologist. Dr. Venters, whose CV is attached as Exhibit H, served as the Chief Medical Officer for the New York City jail system and before that, worked for several years in various other administrative positions in New York's jail system. Dr. Venters now serves as the President of Community Oriented Correctional Health Services, an organization working with correctional healthcare systems to improve patient services. Dr. Venters regularly provides expert testimony on the topic of correctional healthcare and has extensive experience creating policies and practices to respond to infectious disease outbreaks in the correctional setting.

Plaintiffs expect that Dr. Venters will testify about the pressing need for social distancing at the Cook County Jail to protect against rampant infection. Dr. Venters will also testify about the need to triage and separate medically vulnerable detainees because of the higher level of medical supervision that they required during a viral outbreak. Finally, Dr. Venters will provide testimony about the various ways in which the Sheriff's policies are inadequate to protect against the substantial risk of harm posed to detainees at the Jail by rampant spread of the virus.

Plaintiffs will also present evidence from Dr. Amir Moheb Mohareb, an infectious disease specialist. Dr. Mohareb completed his medical degree at Johns Hopkins University School of Medicine, his medical training at Yale-New Haven Hospital, and his infectious disease fellowship training in the joint program of Brigham & Women's Hospital and Massachusetts General Hospital. He is board-certified in both Internal Medicine and Infectious Diseases. A copy of his CV is attached as Exhibit I. Dr. Mohareb practices at Massachusetts General Hospital and teaches at Harvard Medical School. Among other qualifications, Dr. Mohareb is a member

of the Biothreats Response Team at Massachusetts General Hospital, a position which has required him to take a leading role in infection control during the current COVID-19 outbreak.

Plaintiffs expect that Dr. Mohareb will testify about the clinical presentation of COVID-19, the typical course of the disease in both non-vulnerable and vulnerable populations, and the method and rates of transmission of the virus. Dr. Mohareb will also offer testimony about the primary importance of social distancing in protecting against transmission of the virus, and the important, but supportive, role that hygiene and sanitization plays in protecting against transmission of the virus.

The above expert evidence regarding COVID-19 in the Jail, which Plaintiffs touch upon here and that they intend to present more fulsomely at the hearing, is confirmed by a broad and deep public health consensus. More than *six hundred* public health officials wrote to the CDC to ask that it explicitly call for significant reductions of the incarcerated population on the ground that the current risk even assuming compliance with other CDC protocols is intolerably high.[6]

III. If Social Distancing Is Possible at the Current Population Levels, this Court Should Order it Immediately.

The Sheriff must immediately be ordered to take all possible steps to implement medically required social distancing because it is the only way to prevent a severe risk of harm. Detainees may not constitutionally be exposed to a severe risk of contracting a communicable disease. *Gates v. Collier*, 501 F.2d 1291, 1300-1303 (5th Cir. 194) (cited with approval in *Helling*, 509 U.S. at 34); *see also Forbes v. Edgar*, 112 F.3d 262, 266 (7th Cir. 1997) (noting that "exposure of inmates to a serious, communicable disease . . . can qualify [as a] deprivation . . . [that is] sufficiently serious;); *Jolly v. Coughlin*, 76 F.3d 468, 477 (2d Cir. 1996) ("[C]orrectional officials have an

[6] *See* Robert R. Redfield, MD, et al., April 9, 2020 Letter, *available at* https://www.drugpolicy.org/sites/default/files/cdc_letter_on_decarceration_v3_0.pdf (last accessed Apr. 14, 2020).

affirmative obligation to protect inmates from infectious disease."); *Lareau v. Manson*, 651 F.2d 96, 109–11 (2d Cir. 1981).

At this current time, it is clear that social distancing is not happening outside of intake at the Jail. Declarations on behalf of detainees that were taken on April 13 and 14, and are submitted as Group Exhibit E, make this evident. Detainees continue to reside in dorms, sleeping in close proximity to others, and in cells with two people.[7] Detainees also continue to share common areas, sinks, showers, toilets and eating areas.[8] Given the current state of affairs, the question is not

[7] *See e.g.*, Affidavit of Christina Lorenzo ("Lorenzo") on Behalf of Durrell Barker ("Mr. Barker is currently residing in a two-person cell with a cellmate. He was previously in a one-person cell but then he received a cellmate on April 11, 2020."); Aff. of Kara Crutcher on Behalf of Lonnie Sanders ("Until the morning of April 14, Mr. Sanders was living in a two-person cell with another person. Mr. Sanders slept on the floor of the cell. Mr. Sander's tier has 25 people on it. There were 40 people on it as of yesterday."); Aff. of Laura Stempel ("Stempel") on Behalf of Adam Sneed ("Mr. Sneed is residing in a dorm, and there are three feet between beds."); Aff. of Stempel on Behalf of Charles Wills ("Mr. Wills is living in a dorm with 40 other people. There are 3 feet between bunks in the dorm."); Aff. of Elizabeth Corrado ("Corrado") on Behalf of Daniel Arroyo ("There are 38 beds in Mr. Arroyo's tier. He estimates that 30 are being used. The beds are not far apart and social distancing is not possible."); Aff. of Jason Hammond ("Hammond") on Behalf of Keith Jones ("Mr. Jones is living in a dorm with about 27 people. . . . Social distancing is not possible in the tier. The beds are 3-5 feet apart from one another."); and Aff. of Hammond on Behalf of Torrenta Woodgett ("Social distancing is not possible in Mr. Woodgett's housing area. 12 people are allowed out in the common area for 6 hours at a time.") (attached hereto as Group Ex. E).

[8] *See e.g.*, Affidavit of Christina Lorenzo ("Lorenzo") on Behalf of Durrell Barker ("Everyone on the tier [in Division 10] shares the shower area and the phone, which are close together. They also share common areas."); Aff. of Laura Stempel ("Stempel") on Behalf of James Johnson Sr. ("[In Division 10] all detainees (40 people) share the shower area."); Aff. of Kara Crutcher on Behalf of Lonnie Sanders ("Social distancing [in Division 6] is not possible when using the phones, which are close together, or in the shared bathrooms."); Aff. of Stempel on Behalf of Adam Sneed ("Social distancing [in Division 8] is impossible as the detainees share sinks, showers and toilets."); Aff. of Stempel on Behalf of Charles Wills ("All detainees in his dorm [in Division 8] share showers and toilets. Social distancing is not possible in the dorm."); Aff. of Elizabeth Carrado ("Corrado") on Behalf of Mateusz Zabrzenski ("The tier [in Division 8] has 4 showers and 4 bathroom stalls. . . . The tier's day room is crammed. Social distancing is impossible."); Aff. Of Lorenzo on Behalf of Ricardo Hargrove ("The detainees [in Division 11] use a shared shower area. They can use the shared shower area when they are allowed out of their cells to use the phones."); Aff. of Jason Hammond ("Hammond") on Behalf of Keith Jones ("The telephones in the tier [in Division 8] are two feet apart. Everyone eats next to each other and detainees share tables in the dayroom."); and Aff. of Hammond on Behalf of Torrenta Woodgett ("Everyone [in Division 11] shares

whether social distancing is being done at a constitutionally sufficient level, but *whether* it can be done as such. As their contemporaneously filed motion for expedited discovery shows, Plaintiffs are seeking a minimally intrusive means to determine whether medically required social distancing is possible, but if it is there can be no doubt that the Sheriff must implement it immediately.

IV. If Social Distancing is Impossible at the Current Population Levels, the Jail Population Must Be Reduced through Release or Habeas Corpus, or People Must be Transferred to Another Safe Location in the Sheriff's Custody.[9]

If medically required social distancing is not possible, people in the jail must be transferred (which is not a prisoner release order under the PLRA), or the jail population must be reduced, by convening a three-judge district court to hear evidence and issue a prisoner-release order, or by granting habeas corpus release to sufficient numbers of the medically vulnerable so as to enable medically required social distancing.

A. Population Density at the Jail Must be Reduced.

To show a constitutional violation in this case, Plaintiffs must show that they are being confined in conditions that are "objectively unreasonable." (Order at 16–17.)

It might seem obvious that if the current population of a jail unavoidably creates intolerable risk to life and health then the current population must change. But the Sheriff contends that "the Constitution simply cannot require that the only objectively reasonable response to the current pandemic is for wardens across the country to be forced to open the jail doors." (Doc. 41 at 9–10.) He cites no authority for this proposition. Because the proposition would apply regardless of the

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showers and bathrooms. Detainees in the tier eat at shared picnic-style tables. People share the telephones, which are located about one foot from one another.") (attached hereto as Group Ex. E).

[9] Plaintiffs incorporate all prior briefing on the Prison Litigation Reform Act, habeas corpus and transfer submitted in the above-captioned case, and which are specifically referenced throughout this motion.

risk to the detainees, taken to its inevitable conclusion it would require that people—in this case legally innocent people, charged but not convicted of crimes, and many releasable on mere payment of money—suffer excruciating and preventable illness and death. According to the Sheriff, even if Plaintiffs prove that they are at an unreasonable risk of death or serious injury in the jail, and even if they prove that the *only* way to mitigate that risk is to transfer people or reduce the number of people in the jail, they *still* cannot obtain relief. This has it backwards. If current population levels in the Jail necessarily result in unconstitutional conditions, that does not make the conditions "objectively reasonable" and therefore constitutional; it requires a change in population levels.

The Sheriff argues also that it cannot be objectively unreasonable to do the best that one can under the circumstances—that is, if he is indeed doing his best (a point that Plaintiffs dispute at least prior to this Court's intervention) to keep people safe in the jail, an injunction cannot issue. (Doc. 41 at 9-10) This is not the law. The law does not require the Sheriff to be a bad person or to be responsible for the overcrowded jail in order to be ordered to cease confining people in unlawful and dangerous conditions. In *Brown v. Plata*, the Supreme Court confirmed that where the prison population is such that reduction is the *only* way to cure a constitutional violation, an injunction may issue even if the defendant's affirmative conduct did not cause the overcrowding. 563 U.S. 493, 521, 526–29 (2011) (noting that prisoner-release order was appropriate because adequate care was "impossible" without a reduction). If it were true that doing one's best under the circumstances meant that there could be no constitutional violation—under the *Eighth* amendment, let alone the Fourteenth—then *Brown*'s conclusion that non-release measures were "impossible" would have ended that case. But the plaintiffs in *Brown* won.

This principle is illustrated by the leading precedent in this area. In a case seeking injunctive relief, the question is whether *at the time the relief would issue* the Plaintiffs state a Constitutional violation. *See Helling*, 509 U.S. at 36 ("[T]he subjective factor . . . should be determined in light of the prison authorities' current attitudes and conduct."). If the Sheriff were told that a bomb or a gas line were about to explode in the jail in several days, it would make no sense to say that the Constitution has not been violated because *up to that point* there was nothing the Sheriff could have done to prevent the harm; *at that point*, the moment before the explosion—the Court may order the Sheriff to get people out of the jail. The Supreme Court explained that even the more restrictive deliberate-indifference standard follows this "common sense" notion:

> If, for example, the evidence before a district court establishes that an inmate faces an objectively intolerable risk of serious injury, the defendants could not plausibly persist in claiming lack of awareness, any more than prison officials who state during the litigation that they will not take reasonable measures to abate an intolerable risk of which they are aware could claim to be subjectively blameless for purposes of the Eighth Amendment, and in deciding whether an inmate has established a continuing constitutional violation a district court may take such developments into account.

Farmer v. Brennan, 511 U.S. 825, 846 n.9 (1994).

Money v. Pritzker, Case No. 20-cv-2093, 2020 WL 1820660 (N.D. Ill. April 10, 2020), does not counsel a different result than this Supreme Court precedent. There, the Court considered a request for population reduction in the Illinois Department of Corrections owing to the risks posed by COVID-19. The Court concluded that plaintiffs had not shown "deliberate indifference" to an unconstitutional risk of serious harm because numerous measures were being implemented such that there was no factual showing of an immediate intolerable risk to the plaintiffs' health and lives. *Id.* at *17–18.[10] Most importantly, *Money* did not have the benefit of an evidentiary

[10] To the extent it makes a difference, in this case, the lesser standard of "objectively unreasonable" conditions applies to Plaintiffs' claims because they are pretrial detainees. It should be noted that forcing

record that establishes that the only way to mitigate medically intolerable serious risk of infection was social distancing. Such distancing should be ordered here to reduce that risk, and if the current population requires unconstitutional conditions of confinement, the population must change. *Money* does not hold otherwise. Moreover, the *Money* plaintiffs, unlike Plaintiffs here, did not request improved conditions in the facilities to prevent an outbreak; their request, unlike Plaintiffs' here, was interpreted by the court as one for immediate release and, therefore, the *Money* Court could not address the question whether continuing to jail people in conditions that threaten their lives *after* lesser steps have been implemented or are impossible violates the Constitution. *Id.* at *12–13. Moreover, *Money* considered the case at a time when an outbreak had not already threatened the lives of many people inside the facility; here, three people are already dead because of this virus. It is within *that* context and in a facility that is the largest known site of outbreak in the United States, that Plaintiffs' expert testimony and legal argument is before this Court.

a. Habeas Corpus

Plaintiff Kenneth Foster, by his next friend, seeks emergency release from the Jail pursuant to a Section 2241 writ of habeas corpus because Mr. Foster has multiple health problems that place him at elevated risk of contracting serious COVID 19, making his continued detention in the Jail objectively unreasonable. Mr. Foster seeks this relief on behalf of himself and on behalf of those members of subclass A who, in addition to having health vulnerabilities that elevate their risk of serious COVID 19, also, like Mr. Foster, sought release from the Jail pursuant to the procedure established by Cook County Criminal Court Chief Judge Leroy K. Martin, Jr. by order dated March 23, 2020 and were denied.

someone to remain confined *after* a serious and intolerable risk to their life is proven would likely meet either standard. *Farmer*, 511 U.S. at 846 & n.9.

The court's April 9 order concluded that Plaintiff Foster and the subclass he provisionally represents are not entitled to habeas relief because Mr. Foster presented no evidence that he and the class had attempted to initiate the emergency procedure established by Judge Martin. *See* Order at 13. The undersigned counsel has subsequently learned that, in fact, Mr. Foster did seek release in the Circuit Court of Cook County under the Judge Martin procedure. Group Ex. F to this motion includes a motion to reduce bail, filed with the Circuit Court in Mr. Foster's case on March 30. Mr. Foster is charged with robbery, domestic battery and unlawful restraint. Bail is set at $50,000 and he remains in the Jail because he does not have $5000 to pay bond. The motion to reduce bond sets forth Mr. Foster's medical vulnerabilities (¶¶ 5-8) and explains that those vulnerabilities place him particularly at risk within the Jail in light of the pandemic (¶¶ 27-28). The motion specifically alleges that Mr. Foster's constitutional right to objectively reasonable conditions of confinement in violation of the principles enunciated in *Helling v. McKinney*, 509 U.S. 25, 33-34 (1993). *See* Ex. F at ¶¶ 29-31. The motion was heard by Judge Joyce and was denied on April 2. *See* Ex. F.

The Public Defender has informed the undersigned counsel that Mr. Foster's petition was one of 1193 cases that her office presented for review pursuant to Judge Martin's procedure and that release was granted in 719 cases—leaving over 470 cases in which the defendant sought release but was denied. *See* Declaration of Locke E. Bowman Ex. B hereto) at ¶ 3. Counsel are informed and believe that the petitioner-defendant in a significant number of those cases suffers from an underlying health condition that makes them vulnerable to the coronavirus. The Sheriff possesses information that can confirm this belief. Class wide treatment of this habeas claim is therefore appropriate.

As Plaintiffs have acknowledged elsewhere, Illinois law provides a right of appeal from a trial court's refusal to modify bond. *See* Ill. S. Ct. Rule 604(c). But that remedy would require weeks to pursue, as the declaration of the Public Defender's Chief of Staff, Lester Finkle, (attached as Ex. C) makes clear. Plaintiffs have argued elsewhere that such time frames render appellate remedies practically unavailable in the context of the present emergency. *See* Plaintiffs' Supplemental Br. in Support of TRO (Doc. No. 42) at 13-16. Those arguments are incorporated by reference here. This court should find, under the circumstances, that exhaustion must be excused, either because it would be futile or by application of the court's equitable authority to excuse exhaustion in Section 2241 cases. *See generally Gonzalez v. O'Connell,* 355 F.3d 1010, 1016 (7th Cir. 2004).

Mr. Foster is entitled to a writ of habeas corpus based on the totality of the evidence before the court as to the unacceptable risk he faces within the Jail of contracting a life-altering, potentially fatal illness. Mr. Foster suffers from a number of chronic illnesses that elevate his risk, including a history of stomach cancer (for which he was scheduled to begin chemotherapy at the time of his arrest), chronic kidney disease and high blood pressure, among others. *See* Ex. __ at ¶ 5. He has a home to which he could return, where he would live alone and would not be a threat to the personal safety of any person. *See* Bowman Dec. at ¶ 4. It is appropriate to grant habeas corpus relief to a confined person in order to remove that individual from unacceptable conditions of confinement. *Compare, e.g.*, *Robinson v. Sherrod*, 631 F.3d 839, 840–41 (7th Cir. 2011), *with Glaus v. Anderson*, 408 F.3d 382, 387 (7th Cir. 2005); *see also* TRO Order at 14–15.

The same relief is appropriate for each member of the class identified in this motion. Every member of this class faces the same unacceptable risk of serious illness or death because of their heightened vulnerability to the coronavirus and every member of the class faces that risk because

of the impossibility of social distancing within the Jail and the exorbitant risk of infection in the Jail environment. These common factual and legal issues should therefore be addressed on a class wide basis.

Plaintiffs acknowledge that the court will need to individually assess the conditions under which each individual class member should be released, consistent with public safety concerns separate from the spread of the coronavirus. After adjudication of the class wide issues, such individual questions may be taken up by the parties and the court on a case-by-case basis.

b. Transfer

This Court, sitting as a single judge, may order that Dart transfer prisoners to a safe facility or form of custody of his choosing. As Plaintiffs' response to the Court's April 3 Order makes clear (Doc. No. 26-1) at 17-25, an order that prisoners be transferred to receive adequate medical care or to be removed from areas where they would be exposed to deadly diseases is not a "prisoner release order" within the meaning of the PLRA and, therefore, may be issued by a single-judge court. *See Plata v. Brown*, No. C01-1351 TEH, 2013 WL 3200587, at *8 (N.D. Cal. June 24, 2013) (granting motion requiring transfer from area at high risk of coccidioidomycosis, known as "Valley Fever"); *Reaves v. Dep't of Correction*, 404 F. Supp. 3d 520, 523 (D. Mass. 2019) (three judge panel was not required for order of transfer of quadriplegic prisoner to another facility in which he would be treated by a physician with training to care for his substantial and numerous medical needs, as remedy for defendants' failure to provide adequate medical care). This is true under the Prison Litigation Reform Act (PLRA), even if the Sheriff transfers detainees to forms of custody outside of traditional prison buildings. *See Jackson v. Johnson*, 475 F.3d 261, 265-66 (5th Cir. 2007) (holding that a person subjected to confinement in a halfway house counts as a "prisoner" under the PLRA) ("[A]lthough Jackson has been released from confinement in prison, his release

was not to the general public but was rather to a different form of confinement, albeit with certain additional liberties. It is clear that Jackson is being 'detained in any facility' since he is locked up in the halfway house 16 to 24 hours a day and since he may leave the halfway house only for very limited purposes." (citing *Witzke v. Femal*, 376 F.3d 744, 752 (7th Cir. 2004) (determining that halfway-house resident who could leave the facility only during the day and was locked inside at night was confined for PLRA purposes)). Under the PLRA, a "prison" is a "Federal, State, or local facility that incarcerates or detains." 18 U.S.C. § 3626(g)(5). As Plaintiffs' Supplemental Brief further elucidates (Doc. No. 42 at 17-19), Plaintiffs are not asking that they be sent anywhere other than a safe facility that incarcerates them—that is a place that "confin[es]" them, *see* Black's Law Dictionary, *Incarceration* (11th ed. 2019) —and, therefore, they do not seek a "prisoner release order" under the PLRA.[11]

c. Release

Finally, if this Court concludes that social distancing is medically required to reasonably prevent transmission of the virus and that this social distancing is likely impossible under current conditions, Plaintiffs respectfully request that this Court immediately convene a three-judge panel pursuant to 18 U.S.C. 3626(a)(3)(A).

To convene a three-judge district court, this Court must (a) have "previously entered an order for less intrusive relief that has failed to remedy the deprivation of the Federal right sought to be remedied"; and (b) that the Court give the Defendant a "reasonable time" to comply with the prior order to determine whether compliance will cure the constitutional violation. *Id.* "[W]hat is

[11] The district court in *Gray v. County of Riverside*, No. 13 C 0444, Dkt. 191 (C.D. Cal. Apr. 14, 2020), recently recognized that an order directing a sheriff to transfer detainees to a safer location is *not* a "prisoner release order" and therefore not subject to the requirements of 18 U.S.C. § 3626(a)(3). *See* Ex. K (Order Granting Emergency Motion to Enforce Consent Decree) at 4-5.

reasonable in ordinary times may be quite different from what is reasonable in these extraordinary times." *Coleman v. Newsome*, No. 01-CV-01351-JST, 2020 WL 1675775, at *4 n. 9 (E.D. Cal. Apr. 4, 2020) (three-judge court).

Much of what comes next depends on the Office of the Sheriff. If the Sheriff contends that social distancing of the kind required by medical science (which the Sheriff appears to have implemented at intake, *see* Doc. 51-2) is possible *throughout* the facility with the current population at the physical 2600 S. California facility, then this Court should order that, an emergency three-judge panel need not be convened, and Plaintiffs should be given a chance to discover on an expedited basis the extent to which Defendant's contention is true.

If, however, the Sheriff contends that the Office is doing its best under difficult circumstances but that, for whatever reason, such social distancing is not immediately possible with the current jail population, no further time is reasonable to comply. By definition, further time will not yield compliance and will not lead to constitutionally tolerable conditions. At that point, release will be the only remaining option to save the lives and health of potentially thousands of people, and so Plaintiffs would request that a tribunal statutorily empowered to order release be convened as quickly as possible to hear evidence on whether the current population at the jail is indeed the source of constitutional violations, and to determine whether release is necessary. *See, e.g.*, *Coleman*, 2020 WL 1675775, at *4 n. 9. Should the tribunal be unable to be convened within the time period necessary to avert disaster under prevailing scientific reality, then that narrow procedural component of the PLRA would be unconstitutional because it would prevent the emergency vindication of essential constitutional rights, and this Court should order such emergency relief until such time as the tribunal can convene. *Cf. See, e.g.*, *Plata*, , 2013 WL

3200587 at *8 (rejecting interpretation of the PLRA because it "would prevent vindication of the inmates' constitutional rights and would therefore be impermissible").

B. Limited Discovery Is Necessary and Appropriate as to the Relief Requested.

The court should also afford Plaintiffs an opportunity to conduct limited discovery on an expedited basis in advance of a hearing on their requests. Although the commencement of formal discovery typically awaits the completion of the parties' Rule 26(f) conference, the court's ability to control the timing and sequencing of discovery has been interpreted to allow the entry of an order to expedite the discovery process—particularly where the plaintiff seeks preliminary injunctive relief. *See, e.g., Ellsworth Associates, Inc. v. United States,* 917 F. Supp. 841, 844 (D. D.C. 1996); *Revlon Consumer Products Corp. v. Jennifer Leather Broadway, Inc.,* 858 F. Supp. 1268, 1269 (S.D.N.Y. 1994); *Rehabilitation Institute of Chicago v. Hicks*, 1990 WL 16298 (N.D. Ill. Jan. 26, 1990). To obtain expedited discovery, the requesting party must establish "good cause," generally interpreted to mean that the need for discovery outweighs the prejudice to the responding party. *Share Corp. Momar, Inc.* 2010 WL 724321 (E.D. Wis. Feb. 26, 2010).

Plaintiffs seek to leave to expedite three items of discovery: (1) Plaintiffs seek entry into the Jail for their designated medical/public health expert and, in the course of that view, the opportunity to photograph and to take video of selected conditions; (2) Plaintiffs seek depositions, limited to three hours, of Dr. Connie Menella, the Chair of Correctional Health at Cook County Hospital, whose declaration the Sheriff filed in response to relief in this case and as part of the Sheriff's status on compliance with the TRO, and of Michael Miller, the Jail's First Assistant Executive Director whose declaration the Sheriff filed in opposition to relief in this case; and (3) the opportunity to propound a narrow set of document production requests seeking the identity and

location of the members of subclass A and ongoing data regarding the spread of the coronavirus in the Jail, among other things. This proposed discovery is attached as Exhibit A.

There is "good cause" for this discovery. The court has held that Plaintiffs are entitled to a TRO with respect to certain aspects of the Jail's response to the pandemic, as to which there is evidence of inadequacy. Plaintiffs have proffered new evidence further supporting their very urgent claim that the lives of members of the plaintiff classes are being unnecessarily placed at risk by further inadequacies of the Jail's coronavirus response—in particular, the failure to mandate social distancing and the failure to identify and triage medically vulnerable detainees. The limited discovery Plaintiffs seek is necessary to enable the Plaintiffs to present evidence to the court in the emergency hearing that Plaintiffs seek on their second preliminary injunction motion.

Plaintiff recognize that the Jail is in crisis; that there is a shortage of staff because of illness, including confirmed and suspected coronavirus cases among Jail staff; and that these are trying times for all of us. With this in mind, Plaintiffs have narrowly circumscribed their discovery requests so as to intrude only minimally on the Jail. Balancing the need for discovery against the prejudice caused to the Sheriff, the court should conclude that there is "good cause" to expedite discovery and to grant this motion in its entirety.

WHEREFORE, Plaintiffs request that this Court grant their renewed motion for a Preliminary Injunction and for limited, expedited discovery.

Respectfully submitted,

/s/ Alexa A. Van Brunt
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CERTIFICATE OF SERVICE

I, Alexa Van Brunt, an attorney, hereby certify that on April 14, 2020 before 8:00 p.m., I caused a copy of the foregoing to be filed using the Court's CM/ECF system and served upon all counsel who have filed appearances in the above-captioned matter.

/s/ Alexa A. Van Brunt
Alexa A. Van Brunt

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ANTHONY MAYS, Individually and on behalf of a class of similarly situated persons; and JUDIA JACKSON, as next friend of KENNETH FOSTER, Individually and on behalf of a class of similarly situated persons,	)	
Plaintiffs-Petitioners,	)	Case No. 1:20-cv-02134
v.	)	
THOMAS DART, Sheriff of Cook County,	)	
Defendant-Respondent.	)	

PLAINTIFFS' FIRST EXPEDITED SET OF REQUESTS FOR PRODUCTION TO DEFENDANT THOMAS DART

NOW COME the Plaintiffs, ANTHONY MAYS and JUDIA JACKSON, the next friend of KENNETH FOSTER, by their undersigned attorneys, and hereby propound the following First Set of Requests for Production to Defendant THOMAS DART pursuant to Federal Rule of Civil Procedure 34, to be answered within 48 hours of service thereof.

DEFINITIONS AND INSTRUCTIONS

1. "Complaint" refers to any complaint or criticism, including but not limited to written complaints, grievances, disciplinary records, personnel records, legal proceedings, or other Documents relating in any manner to Defendant Thomas Dart's job performance or the job performance of any of his counsel, consultants, employees, representatives, agents, contractors, experts, investigators, or other persons acting on his behalf.

2. "Identify" with respect to a person, shall mean to provide that person's name, address, and telephone number; with respect to a Document, "identify" shall mean to provide the date of the Document, the author of the Document, the subject matter of the Document, and, where applicable, all recipients of the Document; with respect to a Communication, "identify" shall mean to provide the date of the Communication, the Person making the Communication, the subject matter of the Communication, and all Persons who received the Communication.

3. Any request for a Document is also a request to produce all iterations of that Document, including all earlier and all later versions of that Document.

4. If there are no Documents in your possession, custody, or control responsive to a particular request, please so state and identify the particular request for which you have no responsive Documents in your possession, custody, or control.

5. If any Documents responsive to Plaintiffs' discovery requests are known by you to exist but are not in your possession, custody, or control, please identify those Documents and the Person who has possession, custody, or control thereof.

6. In accordance with the ongoing duty of supplementation pursuant to Rule 26 and in light of the emergency and fast-moving nature of the facts relating to the Jail and its response to the pandemic, Plaintiffs specifically request supplementation of the responses to each of the requests below on a daily basis, to the extent new information has emerged. For similar reasons, Plaintiffs seeks responses to these narrow requests with 48 hours following service thereof.

REQUESTS FOR PRODUCTION

1. Documents sufficient to show a list of "medically vulnerable" individuals detained in the Jail who fall within Subclass A, Compl., ECF. 1, at 28, conditionally certified by the Court (ECF 48) which includes anyone who is over the age of 65 and/or suffering from any of the following conditions: respiratory conditions including chronic lung disease or moderate to severe asthma; people with heart disease or other heart conditions; people who are immunocompromised as a result of cancer, HIV/AIDS, or any other condition or related to treatment for a medical condition; people with chronic liver or kidney disease or renal failure (including hepatitis and dialysis patients); people with diabetes, epilepsy, hypertension, blood disorders (including sickle cell disease), inherited metabolic disorders; people who have had or are at risk of stroke; and people with any other condition specifically identified by CDC either now or in the future as being a particular risk for severe illness and/or death caused by COVID-19, *see* https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html. This list should include, at least, each class member's name, age, booking number, bond status/amount, housing location, medical condition, as well as any internal "flag" or classification used by the CCSO in its internal database to designate that person as suffering from the relevant

medical condition. This list should be updated as detainees are processed into the Jail who fall within the Subclass A definition. Plaintiffs believe that much of this information will be contained in Health Alerts transmitted between Cermak Health and the CCSO.

2. Documents sufficient to show daily updates to the operational information contained in the Michael Miller declaration (attached as Ex. H to the Sheriff's Response in Opposition to Plaintiffs' Motion for a Temporary Restraining Order, ECF No. 30-8), including but not limited to the following information:

a. Trends in assigned isolation alerts for unique bookings (Miller Group Ex. 1 at 2-3)

b. List of all tier and occupancy information as set forth in Miller Group Ex. 1, pp. 4-9, including but not limited to Division, Facility, Tier, Capacity, Occupancy, Percent Occupied, Tier Type, First Quarantine, and Projected End Date. This information should be updated daily.

3. Documents sufficient to show the number of persons reporting for work at the Jail on each day since March 22, 2019, the employer of each such person, and the person's position.

Respectfully submitted,

/s/ Alexa A. Van Brunt
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CERTIFICATE OF SERVICE

I, Alexa Van Brunt, an attorney, certify that on April _____, 2020, I served the foregoing Requests for Production upon all parties of record by electronic mail.

/s/_____
One of Plaintiffs' Attorneys

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ANTHONY MAYS, Individually and on behalf of a class of similarly situated persons; and JUDIA JACKSON, as next friend of KENNETH FOSTER, Individually and on behalf of a class of similarly situated persons,	)	
Plaintiffs-Petitioners,	)	Case No. 1:20-cv-02134
v.	)	
THOMAS DART, Sheriff of Cook County,	)	
Defendant-Respondent.	)	

DECLARATION OF LOCKE E. BOWMAN

1. I am attorney licensed to practice law in the State of Illinois and one of the counsel for the plaintiff class in this litigation.

2. On April 7, 2020, I exchanged emails with Amy P. Campanelli, Pubic Defender of Cook County, and Lester Finkle, her Chief of Staff, regarding the results the Public Defender had on the motions that the office brought pursuant to an order entered by Circuit Court of Cook County Chief Judge Leroy K. Martin, Jr. regarding the availability of expedited procedures to reconsider bond for detainees in the Cook County Jail in light of the coronavirus pandemic.

3. Ms. Campanelli reported to me that the office presented 1070 cases for expedited review pursuant to the Judge Martin order at the criminal courthouse at 26th Street and California Avenue and that 123 such cases were presented at the Markham courthouse. Release was granted in 673 Chicago cases and 46 Markham cases, yielding totals of 1193 cases considered and 719 releases granted. Thus, release was denied in 472 cases in which the

defendant sought release pursuant to Judge Martin's expedited procedure for reconsidering bond in light of the coronavirus pandemic.

4. On April 14, I spoke with Judia Jackson, next friend of Plaintiff Kenneth Foster in this litigation. Ms. Jackson informed me that, prior to his arrest, Mr. Foster had made arrangements to live at 4428 W. Wilcox in Chicago, in the first floor apartment (unit 1). That building is owned by Sheldon Dabney, who is a close personal friend of Ms. Jackson. The building is now vacant. Mr. Foster had agreed to assist Mr. Dabney by acting as a handyman and caretaker for the property in Mr. Dabney's absence. Mr. Foster is welcome to live at the property, as previously arranged, should Mr. Foster be released from the Jail.

I declare under penalty of perjury that the foregoing information I have provided is true and correct to the best of my knowledge, information, memory, and belief.

April 14, 2020
Chicago, Illinois

___/s/ Locke E. Bowman _____
Locke E. Bowman

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ANTHONY MAYS, *et al.*,	)	
	)	
Plaintiffs-Petitioners,	)	
	)	Case No. 20-cv-2134
v.	)	
	)	The Hon. Matthew F. Kennelly
THOMAS J. DART, Sheriff of Cook County,	)	Emergency Judge
	)	
	)	The Hon. Robert Gettleman
Defendant-Respondent.	)	Presiding Judge

DECLARATION OF LESTER FINKLE

1. I am an attorney licensed to practice law in the State of Illinois. I have spent my entire professional career since graduation from law school in 1982 engaged in the practice of criminal law in Cook County, Illinois. I am currently Chief of Staff to Cook County Public Defender Amy P. Campanelli. I am very familiar with the practice of criminal law, not only in terms of the applicable rules, statutes and case authority, but also in terms of the realities on the ground in Cook County and the application of the rules and standards in practice.

2. Illinois Supreme Court Rule 604(c) provides for a right of interlocutory appeal from denials of a trial court's refusal to modify bail or the conditions thereof. The interlocutory appeal authorized by Rule 604(c) must be preceded by a verified motion in the trial court setting forth five specified items of information about the defendant. Upon denial by the trial court of such a verified motion, the defendant may file a "verified motion for review" in the Illinois Appellate Court, setting forth the ruling below, the crimes charged, the "amount and condition of bail," and the arguments in support of relief. *Id.* The State has an opportunity to answer the motion, but is not required to do so.

3. Upon denial by the Appellate Court, the defendant has the right to seek discretionary review in the Illinois Supreme Court via a petition for leave to appeal.

4. The Cook County Public Defender does not routinely file motions for review in the Appellate Court pursuant to Rule 604(c). In certain cases, however, our Office has filed such motions. I am therefore generally aware of the process and, in particular, the time frames that are involved in litigating a 604(c) appeal.

5. In my experience, the time from denial of a motion to reconsider bond in the trial court to decision on a verified motion for review under Rule 604(c) by the Illinois Appellate Court is measured in weeks. It typically takes approximately two to four weeks from denial of a bond reconsideration motion to the ruling from the Appellate Court in such cases.

6. In my experience generally, the process of filing a motion for leave to appeal with the Illinois Supreme Court and obtaining that court's decision on whether to accept a case takes at least four to six weeks. When the Illinois Supreme Court accepts a case for review, the process to decision lasts for months, at least.

I declare under penalty of perjury that the foregoing information I have provided is true and correct to the best of my knowledge, information, memory, and belief.

April 6, 2020
Chicago, Illinois

/s/ Lester Finkle

Lester Finkle

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ANTHONY MAYS, *et al.*,	)	
	)	
Plaintiffs-Petitioners,	)	
	)	Case No. 20-cv-2134
v.	)	
	)	The Hon. Matthew F. Kennelly
THOMAS J. DART, Sheriff of Cook County,	)	Emergency Judge
	)	
	)	The Hon. Robert Gettleman
Defendant-Respondent.	)	Presiding Judge

DECLARATION OF SARAH GRADY

Pursuant to 28 U.S.C. § 1746, I hereby declare and state as follows:

1. I am over the age of eighteen and am fully competent to make this declaration. I make this declaration based upon personal knowledge unless otherwise indicated.

2. I am an attorney at the law firm of Loevy & Loevy. On April 13, 2020, my firm obtained the COVID-19 Incarceration Model published by Recidiviz, a non-profit technology company that builds open-source data platforms to assess outcomes in criminal justice systems, by visiting Recidiviz's website at: https://www.recidiviz.org/covid.

3. The COVID-19 Incarceration Model (the Model) is an interactive model that provides an estimated projection of the impact of COVID-19 within correctional facilities like the Cook County Jail.

4. The Model specifically provides projections regarding the likely number of individuals who are infectious over time, the likely number of individuals who are currently exposed over time, the likely number of individuals requiring hospitalization over time, and the likely number of fatalities. It further provides projections regarding the total number of cases in both the detained and staff populations, the total number of hospitalizations in both the detained

and staff populations, and the peak percentage of hospital beds from the community that will be utilized by COVID-19 infected individuals traced to the Jail.

5. Those projections vary based on the amount of social distancing that is enforced at the Jail, leading to a change in the rate of spread that is quantified in the Model. The Model provides three modes regarding the rate of spread: (a) High (very little social distancing), (b) Moderate (some social distancing), and (c) Low (substantial social distancing). The formulas employed by the Model to arrive at its projections are set forth in the "Calculation Data" tab in the Model.

6. The Model's predictions are based on a large amount of national data, including, among others, statistics from the CDC regarding the periods of incubation, contagion, and infection, recovery times, hospitalization and mild case rates, and mortality rates. The Model also bases its predictions on data regarding the rate of spread in high, medium, and low spread settings. The data used by the Model are set forth in the "Variables" tab in the Model.

7. The Model permits the user to edit the inputs based on the most recent data available. Accordingly, under my direction, staff at my firm and law students at Northwestern Law School worked to collect the most recent information regarding Cook County-specific data, including, among others, the total number of hospital and ICU beds in the county, the number of COVID-19 cases and fatalities in the county, the current population and capacity of the Cook County Jail, the current number of staff at the Jail, and the current number of reported cases at the Jail by detainees and staff. The source of that data is reflected in rows 49-56 on the "Variables" tab in the Model, and is inputted in the "Jail and Prison Data" tab, as well as the "Inputs" tab in the Model.

8. After inputting the data collected, the Model predicts that with a "High" rate of spread (i.e., no social distancing), 3,880 detainees and 2,954 staff will contract COVID-19, leading to a peak hospital bed utilization rate of 5.3%. The Model predicts that with a "Low" rate of spread (i.e., substantial social distancing), 2,968 detainees and 2,341 staff will contract COVID-19, leading to a peak hospital bed utilization rate of 3.2%. The Model's outputs under these scenarios are attached to this declaration in PDF format.

9. I provided the Model to Gregg Gonsalves, who reviewed the data and calculations used to generate the Model's output. Professor Gonsalves's discussion of the Model is set forth in paragraph 28 of his declaration, and Professor Gonsalves is prepared to answer questions about the Model, including the assumptions upon which it relies, and the accuracy and limitations of its projections.

10. Immediately after the filing of Plaintiffs' motion for preliminary injunction, I will transmit a copy of the Model in its native Excel format to the Court's proposed order box, copying counsel for all parties.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 14, 2020 in Chicago, Illinois.

Sarah Grady

Attachment 1

COVID-19 Incarceration Model Output
Utilizing the "High" Rate of Spread

COVID-19 Incarceration Model

4/3/2020

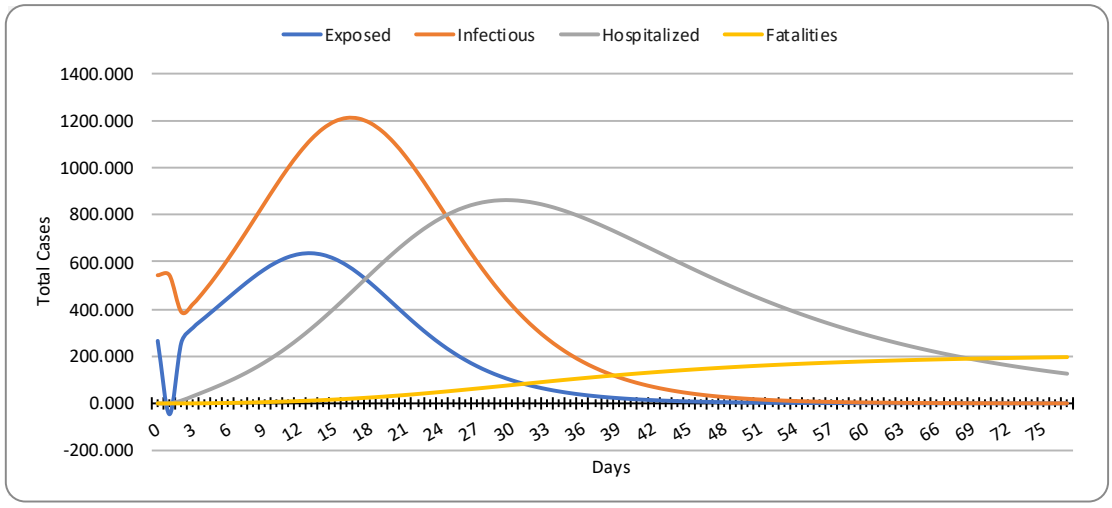
Our understanding of the virus is evolving daily; for the most up-to-date model, download the latest version from recidiviz.org/covid

What is this?

This is an interactive model to allow criminal justice leaders and their staff to project the likely impact of COVID-19 within facilities. Choose your state on the 'Inputs' tab to pre-populate this model with data from your state, or complete all of the gray boxes on that tab to make the model more nuanced. If you have any questions, comments, or concerns, first check the FAQ tab. If you still have a question, reach out to covid@recidiviz.org.

Estimated impact

The chart and the tables that follow it project how far into the future cases will peak in your facilities and how high that peak will be. It also forecasts hospital bed needs, and compares this to the number of hospital beds available in your region.



	Impact Projections			
	In 1wk	*In 2wk*	*In 3wk*	*Overall*
Incarcerated population (totals)				
Cases	1,240	2,612	3,479	3,880
In hospital	54	187	391	1,009
% of county hospital beds used by incarc. pop.	0.6%	2.0%	4.1%	*(N/A)*
Deceased	1	3	6	33
In-facility staff (totals)				
Infected	805	1,612	2,379	2,954
Unable to Work	384	763	1,090	*(N/A)*
In hospital	64	173	292	768
Deceased	2	11	30	170
Maximum utilization				
Peak hospital bed utilization (as % of hospital beds in county)				5.3%
Days until peak hospital bed utilization				30

Attachment 2

COVID-19 Incarceration Model Output
Utilizing the "Low" Rate of Spread

COVID-19 Incarceration Model

4/3/2020

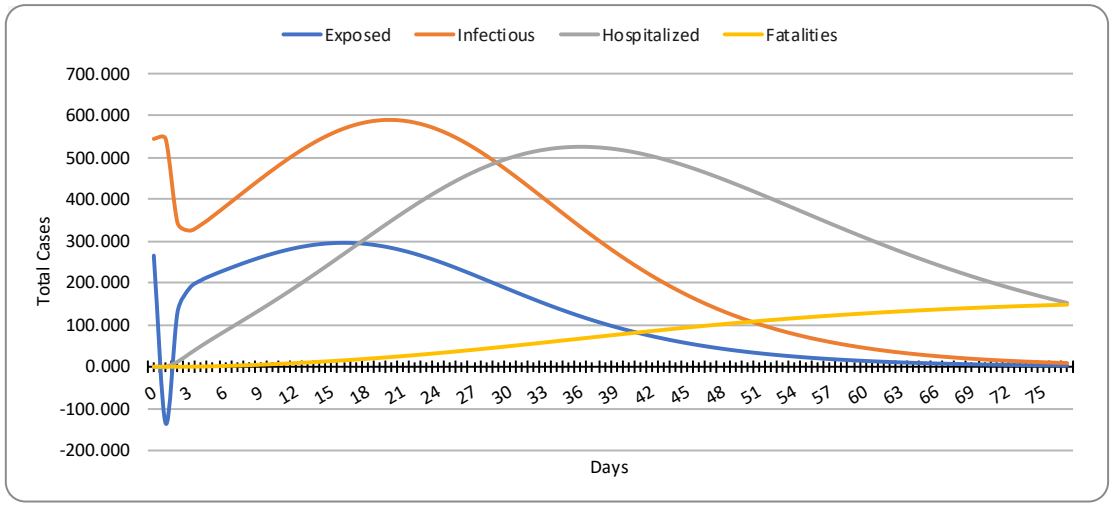
Our understanding of the virus is evolving daily; for the most up-to-date model, download the latest version from recidiviz.org/covid

What is this?

This is an interactive model to allow criminal justice leaders and their staff to project the likely impact of COVID-19 within facilities. Choose your state on the 'Inputs' tab to pre-populate this model with data from your state, or complete all of the gray boxes on that tab to make the model more nuanced. If you have any questions, comments, or concerns, first check the FAQ tab. If you still have a question, reach out to covid@recidiviz.org.

Estimated impact

The chart and the tables that follow it project how far into the future cases will peak in your facilities and how high that peak will be. It also forecasts hospital bed needs, and compares this to the number of hospital beds available in your region.



	Impact Projections			
	In 1wk	*In 2wk*	*In 3wk*	*Overall*
Incarcerated population (totals)				
Cases	702	1,313	1,910	2,968
In hospital	44	105	195	771
% of county hospital beds used by incarc. pop.	0.5%	1.1%	2.0%	*(N/A)*
Deceased	1	3	4	24
In-facility staff (totals)				
Infected	636	1,013	1,424	2,341
Unable to Work	328	489	606	*(N/A)*
In hospital	58	124	172	608
Deceased	1	9	21	132
Maximum utilization				
Peak hospital bed utilization (as % of hospital beds in county)				3.2%
Days until peak hospital bed utilization				37

GROUP EXHIBIT E

Affidavit of Christina on Behalf of Durell Barker

My name is Christina Lorenzo. I am a volunteer investigator at the Chicago Community Bond Fund assisting Plaintiffs' counsel in *Mays v. Dart*. On April 13, I spoke to Durell Barker, a detainee in the Cook County Jail, who provided me the following information.

1. Mr. Barker is 36 years old. He is residing in Division 10 (**DIV10-2B-2122-2**) of the Cook County Jail. He is incarcerated on a no bond order. He has been in the Jail since October 22, 2019.

2. Mr. Barker has asthma, sickle cell trait and acute bronchitis. He is not receiving medication.

3. Mr. Barker is currently residing in a two-person cell with a cellmate. He was previously in a one-person cell but then he received a cellmate on April 11, 2020.

4. Mr. Barker's tier is not on lockdown. They are letting 7 to 10 people out of their cells at a time, though sometimes everyone on the tier is let out at the same time. This does not make sense to Mr. Barker if the Jail is trying to social distance the detainees.

5. Social distancing is not possible in the tier. Everyone on the tier shares the shower area and the phone, which are close together. They also share common areas.

6. People around Mr. Barker are visibly sick. Staff have not come around the tier to take people's temperatures.

7. There are no grievance slips on the tier. Jail staff claim they have no slips to hand out.

8. Mr. Barker has not received cleaning supplies for his cell or the common areas. Mr. Barker receives one tiny and thin bar of soap per week.

9. Mr. Barker received a mask for the first time on April 12.

10. Mr. Barker has not seen a counselor for 2-3 weeks.

I am providing this hearsay declaration because of restrictions on visitors and contact with detainees in the Cook County Jail. I declare under penalty of perjury that the foregoing is true and correct.

April 13, 2020 /s/ Christina Lorenzo
Chicago, Illinois Christina Lorenzo

Affidavit of Christina Lorenzo on Behalf of Ricardo Hargrove

My name is Christina Lorenzo. I am a volunteer investigator at the Chicago Community Bond Fund assisting Plaintiffs' counsel in *Mays v. Dart*. On April 13, 2020, I spoke to Ricardo Hargrove, a detainee in the Cook County Jail, who provided me the following information.

1. Mr. Hargrove resides in Division 11 (Div11-DA-201-1).

2. Mr. Hargrove has kidney problems and bronchitis. He is not receiving medication.

3. Mr. Hargrove believes his unit is under quarantine; 6 people have been removed from it with COVID-19 symptoms.

4. On April 13, Mr. Hargrove saw one detainee get taken out of his cell. He was so sick he could barely walk. This detainee's cellmate was left back in the cell; Mr. Hargrove did not see the cellmate receive cleaning supplies.

5. Mr. Hargrove estimates that there are currently 48 people on his tier. They are allowed out into the common area 6 cells at a time.

6. The detainees use a shared shower area. They can use the shared shower area when they are allowed out of their cells to use the phones.

7. The detainees have been given a mix of soap and water and have been told that it is hand sanitizer.

8. The detainees have not been given cleaning supplies. Mr. Hargrove has not seen the tier's common areas get cleaned at all.

9. Mr. Hargrove believes he may have COVID-19. Jail staff tested his cellmate on April 3 and removed him the same day. When they did so Mr. Hargrove begged for cleaning supplies, but was not given any.

10. Since then, Mr. Hargrove has had shakes, fever, and a bad cough. He also has hot flashes, and his eyes have been red, but he has not been tested.

I am providing this hearsay declaration because of restrictions on visitors and contact with detainees in the Cook County Jail. I declare under penalty of perjury that the foregoing is true and correct.

April 14, 2020 /s/ Christina Lorenzo
Chicago, Illinois Christina Lorenzo

Affidavit of Elizabeth Corrado on Behalf of Daniel Arroyo

My name is Elizabeth Corrado. I am a volunteer investigator assisting the plaintiff's attorneys litigating *Mays v. Dart*. On April 13, 2020, I spoke to Daniel Arroyo, a detainee in the Cook County Jail, who provided me the following information.

1. Mr. Arroyo resides in Division 8, in a Residential Treatment Unit ("RTU") tier 4G.

2. Mr. Arroyo is on blood pressure medicine and blood thinner. He is a diabetic. He has difficulty breathing, and was on a ventilator before being admitted to the jail (admitted to jail March 1, 2020).

3. There are 38 beds in Mr. Arroyo's tier. He estimates that 30 are being used. The beds are not far apart and social distancing is not possible.

4. Everyone on Mr. Arroyo's tier was given a bar of soap several days ago, but the soap is single-use, very small.

5. He was shot in the chest near the heart area four years ago, and takes a medication called Metropol, 25mg, for the resulting condition.

I am providing this hearsay declaration because of restrictions on visitors and contact with detainees in the Cook County Jail. I declare under penalty of perjury that the foregoing is true and correct.

April 14, 2020 /s/ Elizabeth Corrado
Chicago, Illinois Elizabeth Corrado

Affidavit of Elizabeth Corrado on Behalf of Mateusz Zabrzenski

My name is Elizabeth Corrado. I am a volunteer investigator at the Chicago Community Bond Fund assisting Plaintiffs' counsel in *Mays v. Dart*. On April 13, 2020, I spoke to Mateusz Zabrzenski, a detainee in the Cook County Jail, who provided me the following information.

1. Mr. Zabrzenski resides in Division 8, in a Residential Treatment Unit ("RTU") tier 4G.

2. The RTU normally houses 39 detainees, as of April 13 there are 31 detainees, plus guards.

3. Some people were taken off the tier because they were sick.

4. The tier has 4 showers and 4 bathroom stalls.

5. The tier's day room is crammed. Social distancing is impossible.

6. Detainees got soap 4-5 days ago. Each bar of soap is the size of a debit card. Mr. Zabrzenski used this soap to wash two pairs of socks, which expended it.

7. The dorm is cleaned by one person who volunteered to do so. This happens once a day, or sometimes twice. There is no other cleaning happening.

8. Staff generally wear masks, and yesterday the detainees were given masks. They are surgical masks, and the detainees do not know how to wear them.

9. There has been little information about COVID-19 provided to the detainees—instead they get their information from local news broadcasts.

10. Detainees in the RTU have had to argue with staff to get other detainees tested, even when they are running high fevers.

11. Detainees who are sick with COVID-19 symptoms are removed, but nobody knows what happens to them.

I am providing this hearsay declaration because of restrictions on visitors and contact with detainees in the Cook County Jail. I declare under penalty of perjury that the foregoing is true and correct.

April 14, 2020 /s/ Elizabeth Corrado
Chicago, Illinois Elizabeth Corrado

Affidavit of Jason Hammond on Behalf of Keith Jones

My name is Jason Hammond. I am a volunteer investigator at the Chicago Community Bond Fund assisting Plaintiffs' counsel in *Mays v. Dart*. On April 14, I spoke to Keith Jones, a detainee in the Cook County Jail, who provided me the following information.

1. Mr. Jones is 48 years old. He is residing in Division 8 (**DIV08-3G-D5-15**) of the Cook County Jail. He is incarcerated on a no bond order. He has been in the Jail since November 27, 2018.

2. Mr. Jones has chronic asthma. He uses two inhalers, takes three different blood pressure medications and seasonal medications, as well as medicine for depression, a mood stabilizer and medicine for bipolar disorder.

3. Mr. Jones is living in a dorm with about 27 people. The tier is on quarantine.

4. Social distancing is not possible in the tier. The beds are 3-5 feet apart from one another. The telephones in the tier are two feet apart. Everyone eats next to each other and detainees share tables in the dayroom.

5. Detainees just started receiving soap on the tier. The soap is thin and gets used up quickly. Detainees on the tier just started receiving one mask a day on April 12. Mr. Jones was able to do laundry for the first time in a month last night.

I am providing this hearsay declaration because of restrictions on visitors and contact with detainees in the Cook County Jail. I declare under penalty of perjury that the foregoing is true and correct.

April 14, 2020 /s/ Jason Hammond
Chicago, Illinois Jason Hammond

Affidavit of Jason Hammond on Behalf of Torrenta Woodgett

My name is Jason Hammond. I am a volunteer investigator at the Chicago Community Bond Fund assisting Plaintiffs' counsel in *Mays v. Dart*. On April 13, 2020, I spoke to Torrenta Woodgett, a detainee in the Cook County Jail, who provided me the following information.

1. Mr. Woodgett is 37 years old. He is residing in a single cell in Division 11 (Div11-AA-104-1) of the Cook County Jail. He is incarcerated on a no bond order. He has been in the Jail since October 15, 2019.

2. Mr. Woodgett has a brain tumor, receives methadone and suffers from asthma. His pituitary gland is producing low levels of cells regulating hormones.

3. Mr. Woodgett's living area is not on lockdown.

4. Social distancing is not possible in Mr. Woodgett's housing area. 12 people are allowed out in the common area for 6 hours at a time. Everyone shares showers and bathrooms. Detainees in the tier eat at shared picnic-style tables. People share the telephones, which are located about one foot from one another.

5. Mr. Woodgett started receiving soap recently. He is not receiving cleaning products to clean his individual cell. He first started receiving masks on April 12 – the mask was switched out on April 13.

6. Some guards are wearing gloves but not all.

7. Mr. Woodgett has some symptoms of coronavirus but has not shared that information with anyone and he has not been tested. He is scared to be tested.

I am providing this hearsay declaration because of restrictions on visitors and contact with detainees in the Cook County Jail. I declare under penalty of perjury that the foregoing is true and correct.

April 13, 2020 /s/ Jason Hammond
Chicago, Illinois Jason Hammond

Affidavit of Kara Crutcher on Behalf of Lonnie Sanders

My name is Kara Crutcher. I am a volunteer investigator at the Chicago Community Bond Fund assisting Plaintiffs' counsel in *Mays v. Dart*. On April 14, I spoke to Lonnie Sanders, a detainee in the Cook County Jail, who provided me the following information.

1. Mr. Sanders is 45 years old. He is residing in Division 6 (**DIV6-1L-4-1**) of the Cook County Jail. He is incarcerated on a no bond order. He has been in the Jail since February 29, 2020.

2. Mr. Sanders has asthma and mental health issues – he has depression and anxiety.

3. Until the morning of April 14, Mr. Sanders was living in a two-person cell with another person. Mr. Sanders slept on the floor of the cell.

4. Mr. Sander's tier has 25 people on it. There were 40 people on it as of yesterday.

5. Social distancing is not possible when using the phones, which are close together, or in the shared bathrooms.

6. Mr. Sanders has received hotel bars of soap but not hand sanitizer.

7. Mr. Sanders does not have cleaning supplies for his cell. He has a rag and washes his floor with water and soap he buys from commissary.

8. The detainees on the tier started receiving masks two days ago.

9. A person on the tier was feeling sick for two days before staff took action. That person then tested positive, and staff moved him off the tier.

I am providing this hearsay declaration because of restrictions on visitors and contact with detainees in the Cook County Jail. I declare under penalty of perjury that the foregoing is true and correct.

April 14, 2020 /s/ Kara Crutcher
Chicago, Illinois Kara Crutcher

Affidavit of Laura Stempel on Behalf of Adam Sneed

My name is Laura Stempel. I am a volunteer investigator at the Chicago Community Bond Fund assisting Plaintiffs' counsel in *Mays v. Dart*. On April 13, 2020, I spoke to Adam Sneed, a detainee in the Cook County Jail, who provided me the following information.

1. Mr. Sneed is 52 years old. He is residing in Division 8 (**DIV08-4G-D5-21**) of the Cook County Jail. He is incarcerated on a no bond order. He has been in the Jail since January 24, 2020.

2. Mr. Sneed has diabetes, high blood pressure, and he smokes.

3. Mr. Sneed is residing in a dorm, and there are three feet between beds. Social distancing is impossible as the detainees share sinks, showers and toilets.

4. On the tier in which he lives, there are 12 people with symptoms; 10 were removed recently and he has not seen them since.

5. Mr. Johnson received a bar of soap on April 9 and a mask on April 12.

I am providing this hearsay declaration because of restrictions on visitors and contact with detainees in the Cook County Jail. I declare under penalty of perjury that the foregoing is true and correct.

April 14, 2020 /s/ Laura Stempel
Chicago, Illinois Laura Stempel

Affidavit of Laura Stempel on Behalf of Charles Wills

My name is Laura Stempel. I am a volunteer investigator at the Chicago Community Bond Fund assisting Plaintiffs' counsel in *Mays v. Dart*. On April 13, 2020, I spoke to Charles Wills, a detainee in the Cook County Jail, who provided me the following information.

1. Mr. Wills is 70 years old. He is residing in Division 8 (DIV08-4G-D5-18) of the Cook County Jail. He is incarcerated on a $10,000 D Bond that he cannot afford to pay. He has been in the Jail since February 23, 2020.

2. Mr. Wills has high blood pressure.

3. Mr. Wills is living in a dorm with 40 other people. There are 3 feet between bunks in the dorm.

4. All detainees in his dorm share showers and toilets. Social distancing is not possible in the dorm.

5. Two detainees were taken out on stretchers recently.

6. Mr. Wills first received access to hand sanitizer on April 12. He still does not have access to soap.

7. Mr. Wills is scared and feels like a rat in a box.

I am providing this hearsay declaration because of restrictions on visitors and contact with detainees in the Cook County Jail. I declare under penalty of perjury that the foregoing is true and correct.

April 13, 2020 /s/ Laura Stempel
Chicago, Illinois Laura Stempel

Affidavit of Laura Stempel on Behalf of James Johnson Sr.

My name is Laura Stempel. I am a volunteer investigator at the Chicago Community Bond Fund assisting Plaintiffs' counsel in *Mays v. Dart*. On April 14, 2020, I spoke to James Johnson Sr., a detainee in the Cook County Jail, who provided me the following information.

1. Mr. Johnson is 64 years old. He is residing in Division 10 (DIV10-1D-1408-2) of the Cook County Jail. He is incarcerated on a no bond order. He has been in the Jail since September 9, 2019.

2. Mr. Johnson has diabetes, high blood pressure, high cholesterol, and neuropathy in his foot from diabetes. He receives medication of his health conditions and has recently been in the hospital for two weeks each.

3. Mr. Johnson's tier is on lockdown, so they are only allowed out of their cells for less than 3 hours per day.

4. The toilets and sinks are in the individual cells but all detainees (40 people) share the shower area.

5. Mr. Johnson has access to soap but not to hand sanitizer or regular cleaning supplies for his individual cell.

6. Masks for detainees arrived on the tier on Sunday, April 12. The masks are swapped out every day. The masks are easily torn and hard to sleep in, so Mr. Johnson makes his own face cloth and tries to wear it 24 hours per day.

I am providing this hearsay declaration because of restrictions on visitors and contact with detainees in the Cook County Jail. I declare under penalty of perjury that the foregoing is true and correct.

April 14, 2020 /s/ Laura Stempel
Chicago, Illinois Laura Stempel

GROUP EXHIBIT F

MOTION - 705 ILCS 105/27.2a(w) **(Rev. 11/27/02) CCG 0663**

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS
or
CITY OF CHICAGO
or
MUNICIPALITY OF: _____
vs.

Kenneth Foster
DEFENDANT

NO.: 20CR03935

DATE: 4/2/20

FILED
4/2/20
CLERK OF THE CIRCUIT COURT
CRIMINAL DIVISION
DOROTHY BROWN
CLERK

MOTION TO:

[705 ILCS 105/27.2a (w)]

- ☐ **ADVANCE (NO FEE)**
- ☐ **VACATE/AMEND FINAL ORDERS** **($80.00) - FTA, STU, FG**
- ☐ **VACATE BOND FORFEITURE ORDERS** **($45.00)**
- ☐ **VACATE EX PARTE JUDGMENTS** **($45.00)**
- ☐ **VACATE JUDGMENT ON FORFEITURES** **($30.00)**
- ☐ **VACATE "FAILURE TO APPEAR OR COMPLY" NOTICES TO SEC. OF STATE** **($50.00)**
- ☐ **OTHER:** _____

REASON FOR MOTION: Bond Review

30295 (Public Defender)
ATTORNEY NUMBER

Kenneth Foster
DEFENDANT

COURT DATE: 4/2/20

2650 S. California Ave - 7th floor
ADDRESS

COURT ROOM: 308

Chicago — Illinois
CITY **STATE**

COURT LOCATION: 26th Street

60608 (773) 674-3217
ZIP **TELEPHONE**

TIME: 9:30 AM

PREPARING CLERK: _____

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS)
)
V.) NO. 20 CR 03935
)
KENNETH FOSTER)

MOTION TO REDUCE BAIL

Now comes Defendant KENNETH FOSTER, by his attorney AMY P. CAMPANELLI, Public Defender of Cook County, through MIRANDA NILES, Assistant Public Defender, and respectfully move this Honorable Court for a bail hearing and an order granting Mr. Foster's release. This motion is based on the change in circumstances created by COVID-19, which presents a serious public health risk globally and in the United States. COVID-19 also presents an especially serious risk to the health and life of Mr. Foster personally, as he is within the group of people that the Centers for Disease Control and Prevention ("CDC") has categorized as most-at-risk due to his many serious pre-existing medical conditions.

In support of this motion, Mr. Foster states the following:

1. Mr. Foster is currently charged with Domestic Battery, Robbery and Unlawful Restraint. Bail was set in the amount of 50,000-D. Mr. Foster has been incarcerated at the Cook County Department of Corrections (CCDOC) since February 14, 2020, because he is financially unable to afford his present bail.

Family and Community Involvement

2. Mr. Foster is 39 years old. He is a lifelong resident of Cook County. He has resided on Chicago's South Side his entire life.
3. Mr. Foster is the father of three children. His daughter Shakira is 15 years old and his son Kenneth is 16 years old. His other daughter, Kenndei, passed away unexpectedly in December of 2017. Mr. Foster is still dealing with the grief of his daughter's sudden death. Mr. Foster is very involved in the lives of his two remaining children. His son plays basketball and Mr. Foster regularly attends his games and practices.
4. Mr. Foster was attending Larry Baber College, but was forced to take a leave of absence due to his worsening health. He currently receives unemployment and disability because of his medical conditions. Even though he cannot work regularly, Mr. Foster uses the skills he learned at Larry Baber College to provide free haircuts to children and the elderly in his community.

Medical Conditions

5. Mr. Foster suffers from many serious medical conditions, including:
    a. Sarcoidosis
        i. Sarcoidosis is an inflammatory disease that causes abnormal masses of inflamed tissue to form in multiple organs. This disease affects Mr. Foster's liver, spleen, lungs, kidney and heart.
    b. Stomach Cancer

i. Mr. Foster was in remission, but earlier this year the cancer in his stomach came back. He was scheduled to begin chemotherapy at the time he was arrested on this case.

c. Chronic Kidney Disease

d. Hypertension

e. High Blood Pressure

f. Hepatosplenomegaly

g. Arthritis

6. Under the best of circumstances, Mr. Foster needs regular medical care and physician monitoring in order to maintain his health. Prior to his pretrial incarceration on this case, Mr. Foster was under the care both a primary care doctor and several specialists at Sinai Health Systems, all of whom he saw on a regular basis.

7. Mr. Foster's medical conditions affect his lungs and his breathing. He requires the use of an inhaler.

8. Even prior to the COVID-19 outbreak, Mr. Foster was not receiving adequate medical care at CCDOC. He has not received treatment for his stomach cancer and he is not receiving the medication he takes to help with his lung health and breathing.

COVID-19- A Global Pandemic

9. Currently, the United States is experiencing a COVID-19 outbreak via community transmission.[1] On March 11, 2020, the World Health Organization classified the virus as a

[1] Coronavirus Disease 2019 (COVID-19), CENTERS FOR DISEASE CONTROL AND PREVENTION (Mar. 12, 2020), https://www.cdc.gov/coronavirus/2019-ncov/summary.html.

global pandemic.[2] Two days later, the President of the United States declared the pandemic a national emergency.[3]

10. As of Sunday March 29, 2020, there were 125,903 confirmed cases of COVID-19 in the United States, and at least 2,149 deaths. There were 3,558 confirmed cases in Illinois, 2,613 of which were in Cook County. [4]

11. The following orders have been issued by Illinois Governor J.B. Pritzker:

- On March 9, 2020, the Governor issued a disaster proclamation for the State of Illinois. [5]
- On March 13, 2020, the Governor banned all gatherings of 1000 persons or more. [6]
- The same day, Governor Pritzker closed all public and private schools within the State of Illinois.[7]
- On March 16, 2020. Governor Pritzker ordered all bars and restaurants closed for on-premises consumption, and also enhanced his order of March 13, banning all gatherings of 50 persons or more.[8]
- On March 20, 2020 Governor Pritzker issued a statewide stay-at-home order for all Illinois residents starting at 5pm on March 21, 2020. This order is to remain in effect

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[2] Caity Coyne, *State implements measures to prevent widespread coronavirus infections*, CHARLESTON GAZETTE-MAIL (Mar. 12, 2020), https://www.wvgazettemail.com/news/state-implements-measures-to-prevent-widespread-coronavirus-infections/article_8f7ebb96-d1f2-5af5-bc37-3319ac51649c.html.
[3] Lisa Mascaro, et al., *Trump declares virus emergency; House passes aid package*, ASSOCIATED PRESS (Mar. 13, 2020), https://apnews.com/83b0c8e168548fd453b0c177dd1f203a.
[4] Smith, Mitch, *Coronavirus in the U.S.: Latest Map and Case Count* (Mar. 29, 2020 12:11 p.m.) https://www.google.com/amp/s/www.nytimes.com/interactive/2020/us/coronavirus-us-cases.amp.html
[5] https://www2.illinois.gov/sites/gov/Documents/APPROVED%20-%20Coronavirus%20Disaster%20Proc%20WORD.pdf
[6] https://www2.illinois.gov/Documents/ExecOrders/2020/ExecutiveOrder-2020-04.pdf
[7] https://www2.illinois.gov/Documents/ExecOrders/2020/ExecutiveOrder-2020-04.pdf
[8] https://www2.illinois.gov/Documents/ExecOrders/2020/ExecutiveOrder-2020-07.pdf

until at least April 7, 2020. [9]

12. The Illinois Supreme Court has recognized the crisis and issued M.R. 30370 on March 17, 2020. In relevant part, M.R. 30370 authorized the continuation of essential court matters, allowing them to continue if feasible via telephone, video, or other electronic means; ordered that all nonessential court matters and proceedings be continued; authorized the suspension of any deadlines or procedures for up to 30 days after the Governor's state of emergency declaration has been lifted; temporarily suspended any Supreme Court rules to the extent they are contrary to M.R. 30370, restricted access to all courthouses, and ordered temporary reductions in courthouse staffing.[10]

13. Although both the CDC and Governor Pritzker ordered no gatherings of more than 50 persons, [11] on March 16, 2020, the President of the United States urged people across the country to avoid gathering in groups of more than 10 people.[12]

14. According to the CDC, the people at higher risk of getting very sick from Covid-19 include: (1) adults over the age of 60, and (2) people who have serious chronic medical conditions like heart disease, diabetes, and lung disease.[13]

15. The CDC has issued guidance that individuals at higher risk of contracting COVID-19 take immediate preventative actions, including avoiding crowded areas and staying home

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[9] https://www.nbcchicago.com/news/local/what-you-can-and-cannot-do-during-a-stay-at-home-or-shelter-in-place-order/2241024/?amp

[10] https://courts.illinois.gov/SupremeCourt/Announce/2020/031720-3.pdf

[11] Katie Mettler, et al., *CDC urges halting gatherings of 50 people or more*, THE WASHINGTON POST (Mar. 15, 2020), https://www.washingtonpost.com/world/2020/03/15/coronavirus-latest-news/.

[12] Nolan McCaskill, et al., *'This is a very bad one': Trump issues new guidelines to stem coronavirus spread*, POLITICO (Mar. 16, 2020 at 6:53 p.m.), https://www.politico.com/news/2020/03/16/trump-recommends-avoiding-gatherings-of-more-than-10-people-132323.

[13] Coronavirus Disease 2019 (COVID-19), CENTERS FOR DISEASE CONTROL AND PREVENTION (Mar. 12, 2020), https://www.cdc.gov/coronavirus/2019-ncov/summary.html.

as much as possible.[14] With confirmed cases in Chicago that indicate community spread, we must take every necessary action to protect vulnerable populations and the community at large.

Persons Detained In CCDOC Are At Greater Risk Of Contracting And Transmitting COVID-19

16. Conditions of pretrial confinement create the ideal environment for the transmission of contagious disease.[15] Jails have great potential for outbreak. One of the greatest threats to health and safety in a pandemic is the local jail system. Even at the best of times, medical care is limited in pretrial detention centers.[16] According to public health experts, incarcerated individuals "are at special risk of infection, given their living situations," and "may also be less able to participate in proactive measures to keep themselves safe;" "infection control is challenging in these settings."[17] Outbreaks of the flu regularly occur in jails, and during the H1N1 epidemic in 2009, many jails and prisons dealt with high numbers of cases.[18]

17. Additionally, incarcerated people are unable to follow the CDC guidelines for "social

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[14] *People at Risk for Serious Illness from COVID-19*, CDC (March 12, 2020) *at* https://bit.ly/2vgUt1P.

[15] Joseph A. Bick (2007). Infection Control in Jails and Prisons. *Clinical Infectious Diseases* 45(8):1047-1055, *at* https://doi.org/10.1086/521910.

[16] Laura M. Maruschak et al. (2015). Medical Problems of State and Federal Prisoners and Jail Inmates, 2011-12. NCJ 248491. Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, *at* https://www.bjs.gov/content/pub/pdf/mpsfpji1112.pdf

[17] "Achieving A Fair And Effective COVID-19 Response: An Open Letter to Vice-President Mike Pence, and Other Federal, State, and Local Leaders from Public Health and Legal Experts in the United States," (March 2, 2020), *at* https://bit.ly/2W9V6oS.

[18] *Prisons and Jails are Vulnerable to COVID-19 Outbreaks*, The Verge (Mar. 7, 2020) *at* https://bit.ly/2TNcNZY.

distancing" and maintain a separation of at least 6 feet from another person.[19]

18. COVID-19 has an average incubation period of 5.1 days, which means that a person may not feel the effects of the virus until five days after being exposed to the virus.[20] The CDC reports that symptoms may appear as much as 14 days after exposure.[21] Therefore, if a person is screened by the jail in the early days after exposure, that person could be admitted to the general population and come in contact with dozens of people before any symptom is detected.

19. Because of this long incubation period, people can carry and spread the virus without showing any symptoms.[22] In fact, "a Massachusetts coronavirus cluster with at least 82 cases was started by people who were not yet showing symptoms, and more than half a dozen studies have shown that people without symptoms are causing substantial amounts of infection."[23]

20. COVID-19 can remain viable and spread – even when the infected person is no longer around. "A new analysis found that the virus can remain viable in the air for up to 3 hours, on copper for up to 4 hours, on cardboard up to 24 hours and on plastic and stainless steel up to 2 to 3 days."[24]

21. New studies suggest that even young, healthy people could experience a life-threatening

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[19] https://www.cdc.gov/coronavirus/2019-ncov/downloads/community-mitigation-strategy.pdf

[20] Quentin Fottrell, *COVID-19 has a longer incubation period than other human coronaviruses that cause the common cold, new study finds*, MARKET WATCH (Mar. 10, 2020 at 6:37 a.m.), https://www.marketwatch.com/story/novel-coronavirus-has-a-longer-incubation-period-than-other-human-coronaviruses-that-cause-the-common-cold-study-finds-2020-03-09.

[21] Coronavirus Disease 2019 (COVID-19): Symptoms, Centers for Disease Control and Prevention (Feb. 29, 2020), https://www.cdc.gov/coronavirus/2019-ncov/about/symptoms.html#f1.

[22] Roni Caryn Rabin, *They Were Infected With the Coronavirus. They Never Showed Signs.*, N.Y. TIMES (Mar. 6, 2020), https://www.nytimes.com/2020/02/26/health/coronavirus-asymptomatic.html.

[23] Elizabeth Cohen, *Infected people without symptoms might be driving the spread of coronavirus more than we realized*, CNN (Mar. 15, 2020 at 10:22 p.m.), https://www.cnn.com/2020/03/14/health/coronavirus-asymptomatic-spread/index.html.

[24] Yasemin Saplakoglu, *How long can the new coronavirus last on surfaces?*, LIVE SCIENCE (Mar. 11, 2020), https://www.livescience.com/how-long-coronavirus-last-surfaces.html.

progression of symptoms due to *sustained* exposure to COVID-19. When a symptomatic person shares a confined space with a large number of otherwise healthy people, "super-spreading" could occur due to COVID-19's ability to replicate the virus faster than an individual immune system can respond to such repeat, extended exposure.[25]

22. These alarming factors are why scientists and doctors urge "social distancing" – staying six feet or more away from other people – to stop the outbreak.[26] And why Illinois officials have taken extreme measures to keep people away from large groups.

23. It is also why the Chief Judge of Cook County issued an order suspending criminal case matters, with the exception of bail, preliminary hearings, and arraignment hearings.[27]

24. Social distancing is impossible in CCDOC, and for that matter any jail or prison. At the federal level, the Chairman of the U.S. House Judiciary Committee requested that the United States Attorney General "consider measures that can be taken to reduce the number of prisoners in government custody."[28] The Chairman urged federal prosecutors "to not seek the detention of individuals at their initial appearance in court, decline prosecuting minor, non-violent offenses, and decline pursuing supervised release and probation revocations that involve technical and minor violations."[29]

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[25] Raoult, D., Zumla, A., Locatelli, F., Ippolito, G., & Kroemer, G. (2020). Coronavirus infections: Epidemiological, clinical and immunological features and hypotheses. Cell Stress, https://doi.org/10.15698/cst2020.04.216; Hui, David S.C., Zumla, Alimuddin. (2019). Severe Acute Respiratory Syndrome: Historical, Epidemiologic, and Clinical Features. Infectious Disease Clinics. https://doi.org/10.1016/j.idc.2019.07.001.

[26] Alvin Powell, *'Worry about 4 weeks from now,' epidemiologist warns*, THE HARVARD GAZETTE (Mar. 11, 2020), https://news.harvard.edu/gazette/story/2020/03/public-urged-to-ramp-up-social-distancing-increase-coronavirus-tests/.

[27] General Administrative Order 2020-01: http://www.cookcountycourt.org/Portals/0/Chief%20Judge/General%20Administrative%20Orders/GAO%202020-01.pdf?ver=2020-03-16-163631-480

[28] Jerrold Nadler, Chairman, United States House of Representatives Committee on the Judiciary, *Letter to The Honorable William P. Barr* (Mar. 12, 2020), https://judiciary.house.gov/uploadedfiles/2020-03-12_letter_to_ag_barr_re_covid-19.pdf.

[29] Jerrold Nadler, Chairman, United States House of Representatives Committee on the Judiciary, *Letter to The Honorable William P. Barr* (Mar. 12, 2020), https://judiciary.house.gov/uploadedfiles/2020-03-12_letter_to_ag_barr_re_covid-19.pdf.

25. The medical community is in agreement. Dr. Josiah Rich, an epidemiologist who has studied infectious disease in prison systems for decades, says "[t]he most surefire way to avoid a COVID-19 breakout in a correctional facility is to temporarily release incarcerated people."[30] Homer Venters, former chief medical officer on Rikers Island who helped contain the 2009 H1N1 outbreak inside New York City jails, asserts "one of the most important questions [in responding to COVID-19] is: How can we have fewer people in these places—in jails and prisons?"[31] One group of doctors explained how releasing inmates is essential to protecting the health of those outside of jails and prisons:

> The abrupt onset of severe covid-19 infections among incarcerated individuals will require mass transfers to local hospitals for intensive medical and ventilator care — highly expensive interventions that may soon be in very short supply. Each severely ill patient coming from corrections who occupies an ICU bed will mean others may die for inability to obtain care.[32]

Human Rights Watch has joined doctors in calling for the release of elderly and medically vulnerable inmates.[33]

The Outbreak Of COVID-19 In CCDOC Has Already Started

26. The outbreak of COVID-19 at CCDOC has already started. As of March 28, 2020, there

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[30] Jenavieve Hatch and Hayley Miller, *Prisons Are Ripe For Coronavirus Outbreak. They're Not Ready.*, HUFF POST (Mar. 10, 2020 at 5:45 a.m.), https://www.huffpost.com/entry/coronavirus-outbreak-jails-prisons_n_5e66ba77c5b6670e72fd020d.

[31] Jennifer Gonnerman, *How Prisons and Jails Can Respond to the Coronavirus*, THE NEW YORKER (Mar. 14, 2020), https://www.newyorker.com/news/q-and-a/how-prisons-and-jails-can-respond-to-the-coronavirus?

[32] Josiah Rich, *We must release prisoners to lessen the spread of coronavirus*, THE WASHINGTON POST (Mar. 17, 2020 at 4:01 p.m.), https://www.washingtonpost.com/opinions/2020/03/17/we-must-release-prisoners-lessen-spread-coronavirus/.

[33] Kara Scannell, et al., *'More challenging than 9/11': Pandemic tests American criminal justice*, CNN (Mar. 17, 2020 at 12:27 p.m.), https://www.cnn.com/2020/03/17/politics/pandemic-tests-american-criminal-justice/index.html

were total of 89 detainees in CCDOC that have tested positive for the virus.[34] This number more than doubled from the day before when only 38 detainees had tested positive.[35] Additionally, 12 sheriff's office employees have tested positive for COVID-19.[36] This number will only increase in upcoming days and weeks.

Because Of His Medical Conditions Mr. Foster Is At Serious Risk And Should Be Released From CCDOC Custody Immediately

27. Because of Mr. Foster's serious pre-existing medical conditions, he is at even greater risk of becoming critically ill if he contracts COVID-19. In fact, in Mr. Foster's case, COVID-19 will very likely prove fatal. Given the already rampant spread of COVID-19 at CCDOC, if Mr. Foster remains in custody it is mostly likely only a matter of time before he too is sick with the virus.

28. From Mr. Foster's perspective, his life—not only his liberty—is on the line. This creates a powerful incentive to abide by any pretrial release conditions the Court may impose. Due to this health crisis and Mr. Foster's pre-existing medical conditions that makes him especially at risk, Mr. Foster should be released on bond immediately.

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[34] Kelly, Sam, *Sheriff announces 51 new coronavirus cases at Cook County Jail, raising total to 89*, Chicago Sun-Times (Mar. 28, 2020 at 7:48 p.m.), https://chicago.suntimes.com/coronavirus/2020/3/28/21198407/cook-county-jail-coronavirus-covid-19-cases-inmates-89

[35] *Coronavirus In Chicago: 89 Inmates, 12 Staff At Cook County Jail test Positive For COVID-19*, CBS Chicago (Mar. 28, 2020 at 7:30 P.M.) https://chicago.cbslocal.com/2020/03/28/coronavirus-cook-county-jail-inmates-staff-covid-19-saturday-march-28/amp/

[36] Kelly, Sam, *Sheriff announces 51 new coronavirus cases at Cook County Jail, raising total to 89*, Chicago Sun-Times (Mar. 28, 2020 at 7:48 p.m.), https://chicago.suntimes.com/coronavirus/2020/3/28/21198407/cook-county-jail-coronavirus-covid-19-cases-inmates-89

It is A Violation Of The Eighth Amendment To Keep Mr. Foster In Custody During The COVID-19 Pandemic

29. A defendant has a right to pretrial bail; if this right is not preserved the presumption of innocence would lose its meaning. *Stack v. Boyle*, 342 U.S. 1, 4 (1951). Bail set at an amount higher than what is reasonably needed to assure the presence of an accused in court is "excessive" under the *Eighth Amendment*. *Id.* at 3. "To infer from the fact of indictment alone a need for bail in an unusually high amount is an arbitrary act." *Id.* at 6. The *Eighth Amendment's* excessive bail provision is binding upon the states under the *Fourteenth Amendment*. *Meechaicum v. Fountain*, 696 F.2d 790, 792 (1983).

30. Even persons confined in jails and prisons must "be furnished with the basic human needs, one of which is 'reasonable safety.'" *Helling v. McKinney,* 509 U.S 25, 33-34 (1993). The *Eighth Amendment* applies to inhumane conditions of confinement, including the mingling of inmates with serious contagious diseases with other detainees. *Id.*

31. Given the rampant spread of COVID-19 that has already started at the jail, it is impracticable to believe that CCDOC will be able to keep Mr. Foster reasonably safe from this highly contagious virus.

WHEREFORE, Mr. Foster respectfully requests that he is released on his own recognizance or that the amount of his bail is substantially lowered to an amount he can afford to post.

Respectfully submitted,

AMY P. CAMPANELLI,
Public Defender of Cook County
Attorney No. 30295

Miranda Niles
Assistant Public Defender

Certification of attorney

Under penalties as provided by law, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

Miranda Niles
Assistant Public Defender

Case Summary

Criminal Division

Case Summary

Case No. 20CR0393501

People of the State of Illinois vs. FOSTER T KENNETH

§	Location:	**Criminal Division**
§	Judicial Officer:	**McHale, Michael B**
§	Filed on:	**03/11/2020**
§	Case Number History:	**20CR0393501**
§	IR Number:	**1117892**
§	Record Division Number:	**JD149840**
§	Central Booking Number/Document Control Number:	**019937132**
§	Related Municipal Case Number:	**20DV-72493**
§	SID/IBI:	**35661250**
§	Internal Case Identifier (T&I Only):	**ILCPD0000JD149840**

Case Information

Case Type: Felony Indictment
Case Status: **03/11/2020 Active**

Offense	Statute	Degree	Offense Date	Filed Date
Jurisdiction: **Chicago Police Department**				
1. ROBBERY	720 ILCS 5/18-1(a)	F2	01/01/1900	03/11/2020
Arrest Date: 02/13/2020 Agency: ILCPD0000 - Chicago Police Department DCN: 019937132 Sequence: 001				
2. DOM BTRY/HARM/1-2 PRECONV	720 ILCS 5/12-3.2(a)(1)	F4	01/01/1900	03/11/2020
Arrest Date: 02/13/2020 Agency: ILCPD0000 - Chicago Police Department DCN: 019937132 Sequence: 002				
3. DOM BTRY/HARM/1-2 PRECONV	720 ILCS 5/12-3.2(a)(1)	F4	01/01/1900	03/11/2020
Arrest Date: 02/13/2020 Agency: ILCPD0000 - Chicago Police Department DCN: 019937132 Sequence: 003				
4. UNLAWFUL RESTRAINT	720 ILCS 5/10-3	F4	01/01/1900	03/11/2020
Arrest Date: 02/13/2020 Agency: ILCPD0000 - Chicago Police Department DCN: 019937132 Sequence: 004				

Assignment Information

Current Case Assignment

Case Number	20CR0393501
Court	Criminal Division
Date Assigned	03/19/2020
Judicial Officer	McHale, Michael B

Party Information

		Lead Attorneys
Defendant	**KENNETH, FOSTER T** 1308 W 52nd St Chicago, IL 60609 Black Male Height: 5' 11" Weight: 240 DOB: 04/07/1980 Other Agency Number: 1117892 IR Number, 035661250 SID/IBI, 35661250 SID/IBI	**S, L** ***Retained***

Events and Orders of the Court

05/07/2020 **By Agreement** (Judicial Officer: McHale, Michael B)
Resource: Location CR1720 Criminal Division, Courtroom 308
Resource: Location CRFADDR1 2650 South California Avenue, Chicago, IL 60608

04/02/2020 Order of Court Continuance COVID-19 Closure (Judicial Officer: Joyce, Timothy Joseph)

04/02/2020 Defendant In Custody (Judicial Officer: Joyce, Timothy Joseph)

04/02/2020 **Motion for Bail Hearing** (Judicial Officer: Joyce, Timothy Joseph)
Resource: Location CR1720 Criminal Division, Courtroom 308
Resource: Location CRFADDR1 2650 South California Avenue, Chicago, IL 60608
MINUTES - 04/02/2020
Defendant In Custody (Judicial Officer: Joyce, Timothy Joseph)
Mittimus Transmitted To Sheriff's Office
By Agreement (Judicial Officer: McHale, Michael B)
Resource: Location CR1720 Criminal Division, Courtroom 308
Resource: Location CRFADDR1 2650 South California Avenue, Chicago, IL 60608
Order of Court Continuance COVID-19 Closure (Judicial Officer: Joyce, Timothy Joseph)
Addendum;

03/19/2020 Public Defender Appointed (Judicial Officer: McHale, Michael B)

03/19/2020 **Plea** (Judicial Officer: McHale, Michael B)
KENNETH, FOSTER T
1. ROBBERY
Plea of Not Guilty
DCN: 019937132 Sequence: 001
KENNETH, FOSTER T
2. DOM BTRY/HARM/1-2 PRECONV
Plea of Not Guilty
DCN: 019937132 Sequence: 002
KENNETH, FOSTER T
3. DOM BTRY/HARM/1-2 PRECONV
Plea of Not Guilty
DCN: 019937132 Sequence: 003
KENNETH, FOSTER T
4. UNLAWFUL RESTRAINT
Plea of Not Guilty
DCN: 019937132 Sequence: 004

03/19/2020 Motion For Discovery

03/19/2020 Defendant In Custody (Judicial Officer: McHale, Michael B)

03/19/2020 Defendant Arraigned (Judicial Officer: McHale, Michael B)

03/19/2020 Admonish As To Trial In Absent (Judicial Officer: McHale, Michael B)

03/19/2020 Defendant In Custody (Judicial Officer: McHale, Michael B)

03/19/2020 **Assignment** (Judicial Officer: McHale, Michael B)
Resource: Location CR1720 Criminal Division, Courtroom 308
Resource: Location CRFADDR1 2650 South California Avenue, Chicago, IL 60608
MINUTES - 03/19/2020
Defendant In Custody (Judicial Officer: McHale, Michael B)
Mittimus Transmitted To Sheriff's Office
Defendant Arraigned (Judicial Officer: McHale, Michael B)
Admonish As To Trial In Absent (Judicial Officer: McHale, Michael B)
Motion For Discovery

By Agreement (Judicial Officer: McHale, Michael B)
Resource: Location CR1720 Criminal Division, Courtroom 308
Resource: Location CRFADDR1 2650 South California Avenue, Chicago, IL 60608
Defendant In Custody (Judicial Officer: McHale, Michael B)
Plea (Judicial Officer: McHale, Michael B)
KENNETH, FOSTER T
1. ROBBERY
Plea of Not Guilty
DCN: 019937132 Sequence: 001
KENNETH, FOSTER T
2. DOM BTRY/HARM/1-2 PRECONV
Plea of Not Guilty
DCN: 019937132 Sequence: 002
KENNETH, FOSTER T
3. DOM BTRY/HARM/1-2 PRECONV
Plea of Not Guilty
DCN: 019937132 Sequence: 003
KENNETH, FOSTER T
4. UNLAWFUL RESTRAINT
Plea of Not Guilty
DCN: 019937132 Sequence: 004
Public Defender Appointed (Judicial Officer: McHale, Michael B)
Addendum;

03/19/2020 **Arraignment** (Judicial Officer: Martin, LeRoy K, Jr.)
Resource: Location CR1701 Criminal Division, Courtroom 101
Resource: Location CRFADDR1 2650 South California Avenue, Chicago, IL 60608

03/16/2020 Case Assigned

03/11/2020 Indictment/Information-Clerks Office-Presiding Judge

03/11/2020 Case Filed

EXHIBIT G

DECLARATION OF GREGG GONSALVES

I, **GREGG S. GONSALVES**, upon my personal knowledge, and in accordance with 28 U.S.C. § 1746, declare as follows:

1. I am an epidemiologist at the Yale School of Medicine and School of Public Health. I have worked at the schools of medicine and public health since 2017. Attached as Exhibit A is my CV.

2. COVID-19 is an infectious disease caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), a virus closely related to the SARS virus. In its least serious form, COVID-19 can cause illness including fever, cough, and shortness of breath. However, for individuals who become more seriously ill, a common complication is bilateral interstitial pneumonia, which causes partial or total collapse of the lung alveoli, making it difficult or impossible for patients to breathe. Thousands of patients have required hospital-grade respirators, and COVID-19 can progress from a fever to life-threatening pneumonia with what are known as "ground-glass opacities," a lung abnormality that inhibits breathing.

3. In about 16% of cases of COVID-19, illness is severe including pneumonia with respiratory failure, septic shock, multi organ failure, and even death.

4. Certain populations of people are at particular risk of contracting severe cases of COVID-19. People over the age of fifty are at higher risk, with those over seventy at serious risk. As the Center for Disease Control and Prevention has advised, certain medical conditions increase the risk of serious COVID-19 for people of any age. These medical conditions include: those with lung disease, heart disease, diabetes, blood disorders, chronic liver or kidney disease, inherited metabolic disorders, developmental delays, those who are immunocompromised (such as from cancer, HIV, autoimmune diseases), those who have survived strokes, and those who are pregnant.[1]

5. There is no vaccine against COVID-19 and there is no known cure. No one is immune. The only known effective measures to prevent injuries or deaths resulting from COVID-19 are to prevent individuals from being infected with the virus. In fact, young and healthy individuals may be more susceptible than originally thought. New data from the CDC show that up to one-fifth of infected people ages 20-44 have been hospitalized, including 2%-4% who required treatment in an intensive care unit.[2]

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[1] Centers for Disease Control and Prevention, *Coronavirus Disease 2019 (COVID-19): People Who May Be at Higher Risk for Severe Illness,* https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html (last accessed Mar. 18, 2020).

[2] Centers for Disease Control and Prevention, Severe Outcomes Among Patients with Coronavirus Disease 2019 (COVID-19) — United States, February 12–March 16, 2020 (Mar. 26, 2020), https://www.cdc.gov/mmwr/volumes/69/wr/mm6912e2.htm?s_cid=mm6912e2_w
Sharon Begley, New analysis breaks down age-group risk for coronavirus — and shows millennials are not invincible (March 18, 2020)
https://www.statnews.com/2020/03/18/coronavirus-new-age-analysis-of-risk-confirms-young-adults-not-invincible/

6. The number of people infected is growing exponentially. The death toll in, for instance, the nation of Italy, which began experiencing this epidemic about a week earlier than the first diagnosed American cases, rose by 30% overnight in the 24 hours between March 5, 2020 and March 6, 2020.[3] On March 17, 2020, Italy reported 345 new coronavirus deaths in the previous 24 hours, an increase in the death toll of 16%.[4]

7. Similar rapid growth has occurred in the United States. Though testing has been limited, as of the beginning of March, a limited number of cases had been discovered in the United States and few deaths had been reported. Today, more than half a million cases have been discovered in the United States and more than 20,000 people have died.[5] Ten thousand of those deaths have occurred in New York state in the past 30 days.[6]

8. Without effective public health interventions, a COVID-19 response team at the Imperial College in the United Kingdom projected 2.2 million or more deaths in the United States.[7]

9. For all people, even in advanced countries with very effective health care systems, the case fatality rate of COVID-19 is about ten fold higher than that observed from a severe seasonal influenza. In the more vulnerable groups, both the need for care, including intensive care, and death is much higher than we observe from influenza infection. In the highest risk populations, the case fatality rate is about 15%. For high risk patients who do not die from COVID-19, a prolonged recovery is expected to be required, including the need for extensive rehabilitation for profound deconditioning, loss of digits, neurologic damage, and loss of respiratory capacity that can be expected from such a severe illness.

10. Based on data collected by the Centers for Disease Control and Prevention, World Health Organization, and National Center for Biotechnology Information on the speed at which SARS-CoV-2 has spread since it is first known to have infected a human in November 2019, the virus is estimated to be twice as contagious as influenza.[8] Unlike influenza, there are no known vaccines or antiviral medications to prevent or treat infection from COVID-19. Because the coronavirus that causes COVID-19 is passed through respiratory droplets and also appears to be able to survive on inanimate surfaces, it can be transmitted even when an infected person is no longer in the immediate vicinity. Data from China indicates that the average infected person passes the virus on to 2-3 other

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[3] Worldometer, Italy, https://www.worldometers.info/coronavirus/country/italy/ (last accessed Mar. 26, 2020).
[4] *Id.*
[5] Johns Hopkins, Coronavirus Resource Center, https://coronavirus.jhu.edu/us-map (last accessed April 13, 2020).
[6] The COVID Tracking Project, New York State, https://covidtracking.com/data/state/new-york (last accessed April 13, 2020).
[7] Imperial College COVID-19 Response Team, *Impact of non-pharmaceutical Interventions (NPIs) to reduce COVID-19 mortality and healthcare demand* (Mar. 16, 2020), https://www.imperial.ac.uk/media/imperial-college/medicine/sph/ide/gida-fellowships/Imperial-College-COVID19-NPI-modelling-16-03-2020.pdf.
[8] Brian Resnick & Christina Animashaun, *Why Covid-19 is worse than the flu, in one chart*, Vox (Mar. 18, 2020), https://www.vox.com/science-and-health/2020/3/18/21184992/coronavirus-covid-19-flu-comparison-chart.

people at distances of 3-6 feet.[9] Everyone is at risk of infection because our immune systems have never been exposed to or developed protective responses against this virus.

11. The current estimated incubation period of COVID-19 is between 2 and 14 days, meaning that a patient who begins showing symptoms today may have been contagious for as long as two weeks prior. The time course of the disease once symptoms appear can be very rapid. A patient's condition can seriously deteriorate in as little as five days (perhaps sooner) following initial detection of symptoms. The current estimated rate for life-threatening complications is approximately 20%, with a fatality rate estimated at between 1% and 5%. All of these risk assessment numbers, however, appear to be rising.

12. It is clear that, currently, the numbers of people diagnosed reflect only a portion of those likely infected; very few people have been tested, and many are asymptomatic, so they do not even know they should be tested. As a result, thousands of people are likely living day to day and carrying a potentially fatal disease that is easily transmitted—and no one is aware of it.

13. Illinois announced the first confirmed COVID-19 case in the state on January 24, 2020.[10] As of April 13, the IL Department of Public Health has confirmed 22,025 cases of COVID-19 in the state.[11] As of March 21, 2020, Illinois has been under a mandatory shelter-in-placer order.[12] Since then, more than half of the world's population has been placed under mandatory lockdowns, and cities and institutions across the United States have closed public events, workplaces, and schools in order to curb spread of COVID-19 by limiting person-to-person transmission in group settings.

14. On March 13, 2020 President Donald J. Trump announced a national state of emergency in response to the disease's outbreak.[13]

15. On March 11, 2020, the World Health Organization declared a global pandemic based on COVID-19. Citing "deep[] concern[] both by the alarming levels spread and severity, and by the alarming levels of inaction," it called for countries to take "urgent and aggressive action."[14]

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[9] Knvul Sheikh, Derek Watkins, Jin Wu & Mika Gröndahl, *How Bad Will the Coronavirus Outbreak Get? Here are 6 Key Factors*, NEW YORK TIMES (Feb. 28, 2020), https://www.nytimes.com/interactive/2020/world/asia/china-coronavirus-contain.html.

[10] Illinois Dpartment of Public Health, Coronavirus Diesease 2019 (COVID-19), https://www.dph.illinois.gov/covid19 (Apr. 13, 2020).

[11] Illinois Department of Public Health, *COVID-19 Statistics* (Apr. 13, 2020), https://www.dph.illinois.gov/covid19/covid19-statistics.

[12] Executive Order In Response to COVID-19, No. 8, Mar. 21, 2020, https://www2.illinois.gov/IISNews/21288-Gov._Pritzker_Stay_at_Home_Order.pdf

[13] President Donald Trump, *Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak* (Mar. 13, 2020), https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/.

[14] World Health Organization, *WHO Director-General's opening remarks at the media briefing on COVID-19* (Mar. 11, 2020), https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020.

16. The virus is thought to be transmitted mainly between people who are in close contact with one another (within about 6 feet) through respiratory droplets produced when an infected person coughs or sneezes. It also may be possible that a person can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes. What doctors and experts are calling "community spread" is at the root, and "containment" and "social distancing" are being enforced as the best methods of prevention. Containment requires intensive hand washing practices, decontamination and aggressive cleaning of surfaces, and identifying and isolating people who are ill or who have had contact with people who are ill. Social distancing means, in essence, isolating oneself from other people: working from home, avoiding travel, avoiding crowds and contact with others, not touching common surfaces, and generally staying at least 6-12 feet from other people.

17. In light of COVID-19, individuals in detention facilities are at risk of serious harm. Detention facilities are designed to maximize control of the incarcerated population, not to minimize disease transmission or to efficiently deliver health care. These facilities are enclosed environments, much like the cruise ships that were the site of the largest concentrated outbreaks of COVID-19. Detention facilities have even greater risk of infectious spread than other enclosed environments because of conditions of crowding, the proportion of vulnerable people detained, and often scant medical care resources. During the H1N1 influenza ("Swine Flu") epidemic in 2009, jails and prisons were sites of severe outbreaks of viral infection.[15]

18. People incarcerated in detention facilities have an even greater need to utilize social distancing to protect against rampant rates of infection. Toilets, sinks, and showers are shared, without disinfection between use. Food preparation and food service is communal, with little opportunity for surface disinfection. Spaces are poorly ventilated, which promotes highly efficient spread of diseases through droplets.

19. The medical facilities at jails and prisons are almost never sufficiently equipped to handle widespread outbreaks of infectious diseases. To prevent transmission of droplet-borne infectious diseases, people who are infected and ill need to be isolated in specialized airborne negative pressure rooms. Most jails and prisons have few negative pressure rooms if any, and these may be already in use by people with other conditions (including tuberculosis or influenza). Resources will become exhausted rapidly and any beds available will soon be at capacity. As an outbreak spreads, medical personnel become sick and do not show up to work. Facilities can become dangerously understaffed with healthcare providers.

20. Jails and prisons often need to rely on outside facilities (hospitals, emergency departments) to provide intensive medical care given that the level of care they can provide in the facility itself is typically relatively limited.

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[15] David M. Reutter, *Swine Flu Widespread in Prisons and Jails, but Deaths are Few,* PRISON LEGAL NEWS (Feb. 15, 2010), https://www.prisonlegalnews.org/news/2010/feb/15/swine-flu-widespread-in-prisons-and-jails-but-deaths-are-few/.

21. As health systems inside facilities are taxed, people with chronic underlying physical and mental health conditions may not be able to receive the care they need. Failure to provide individuals adequate medical care for their underlying chronic health conditions results in increased risk of COVID-19 infection and increased risk of infection-related morbidity and mortality if they do become infected.

22. Failure to provide adequate mental health care, as may happen when health systems in jails and prisons are taxed by COVID-19 outbreaks, can result in poor health outcomes. Moreover, mental health conditions may be exacerbated by the stress of incarceration during the COVID-19 pandemic, including isolation and lack of visitation.

23. These risks have all been borne out during past epidemics of influenza in jails and prisons. For example, in 2012, the CDC reported an outbreak of influenza in 2 facilities in Maine, resulting in two inmate deaths.[16] Subsequent CDC investigation of 995 inmates and 235 staff members across the 2 facilities discovered insufficient supplies of influenza vaccine and antiviral drugs for treatment of people who were ill and prophylaxis for people who were exposed. During the swine flu outbreak in 2009, jails and prisons experienced a disproportionately high number of cases.[17] Even facilities on "quarantine" continued to accept new intakes, rendering the quarantine incomplete. These scenarios occurred in the "best case" of influenza, a viral infection for which there was an effective and available vaccine and antiviral medications, unlike COVID-19, for which there is currently neither.

24. Due to the crowded conditions and scarcity of sanitary and medical resources, transmission of infectious diseases in jails and prisons, including the Cook County Jail, is incredibly common. These risks are magnified for those diseases, like COVID-19, that are transmitted by respiratory droplets.

25. The experiences of other nations fighting COVID-19 outbreaks demonstrate the particular risk of COVID-19 transmission present in detention facility settings. Prisons in China reported more than 500 cases of COVID-19 spread across four facilities, and these cases affected both correctional officers and incarcerated people.[18] Secretary of State Mike Pompeo has called for Iran to release U.S. citizens detained there because of "deeply troubling" "[r]eports that COVID-19 has spread to Iranian prisons," noting that "[t]heir detention amid increasingly deteriorating conditions defies basic human decency."[19]

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[16] *Influenza Outbreaks at Two Correctional Facilities – Maine, March 2011,* Centers for Disease Control and Prevention (2012), https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6113a3.htm.

[17] David M. Reutter, *Swine Flu Widespread in Prisons and Jails, but Deaths are Few,* PRISON LEGAL NEWS (Feb. 15, 2010), https://www.prisonlegalnews.org/news/2010/feb/15/swine-flu-widespread-in-prisons-and-jails-but-deaths-are-few/.

[18] Evelyn Cheng & Huileng Tan, *China says more than 500 cases of the new coronavirus stemmed from prisons,* CNBC (Feb. 20, 2020), https://www.cnbc.com/2020/02/21/coronavirus-china-says-two-prisons-reported-nearly-250-cases.html.

[19] Michael R. Pompeo, *United States Calls for Humanitarian Release of All Wrongfully Detained Americans in Iran,* U.S. Dep't of State (Mar. 10, 2020), https://www.state.gov/united-states-calls-for-humanitarian-release-of-all-wrongfully-detained-americans-in-iran/.

26. As of April 12, 2020, of the 22,025 confirmed cases in the state of Illinois, 306 of those cases have been detainees at the Cook County Jail.[20] An addition 181 correctional officers at the jail have been infected.[21] The New York Times reported that the Cook County Jail is now the largest single source of coronavirus infections in the United States.[22]

27. Continued uncontrolled outbreak in the Cook County Jail will impose a significant straing on the larger community and its health care system. COVID-19 threatens the well-being of detained individuals, the corrections staff who shuttle between detention facilities and outside communities, and members of those outside communities. Staff, visitors, contractors, and vendors who pass between communities and facilities and can bring infectious diseases into facilities. Moreover, rapid turnover of jail and prison populations means that people often cycle between facilities and communities. People often need to be transported to and from facilities to attend court and move between facilities. Strains on the medical systems of detention facilities have implications for the outside hospitals and emergency departments on which detention facilities already depend for intensive medical care services. Prison health is public health.

28. I have reviewed the Recidiviz model of expected COVID-19 cases at the Cook County Jail provided by the plaintiffs in this lawsuit to the Court. That model uses local and national data to estimate the projected course of the COVID-19 outbreak at the jail with a low, moderate, and high rate of spread. Among other things, it shows that expected percentage of county hospital beds that will be occupied by detainees of the Cook County jail in the coming weeks. While the estimates vary depending on assumptions about social distancing measures inside of the jail, up to 5% of all county hospital beds may be needed to treat jail detainees if substantial measures to enforce social distancing are not taken. The result is that a significant portion of the county's hospital capacity will be needed to treat the jail population, even though that population represents a tiny fraction of the county's total population.

29. The only viable public health strategy available is risk mitigation. In my opinion, from an epidemiological perspective, ensuring that all detainees in Cook County Jail can socially distance from one another is the only way to prevent further, essentially uncontrolled, spread of the virus. Social distancing is necessary for the safety of detained individuals and the broader community as we address the rapid global outbreak of COVID-19.

30. Enabling social distancing at the Jail has a number of valuable effects on public health and public safety: it reduces the chance of spread if the virus is introduced; it allows easier provision of preventive measures such as soap for handwashing, cleaning supplies for surfaces, frequent laundering and showers, etc.; and it helps prevent overloading the work of detention staff such that they can continue to ensure the safety of detainees.

[20] https://www.cookcountysheriff.org/covid-19-cases-at-ccdoc/ (last visited Apr. 13, 2020).
[21] https://www.cookcountysheriff.org/covid-19-cases-at-ccdoc/ (last visited Apr. 13, 2020).
[22] https://www.nytimes.com/reuters/2020/04/09/us/09reuters-health-coronavirus-usa-prison.html.

31. The public health crisis requires each and every one of us to re-evaluate how we conduct our lives and care for one another. Institutions responsible for the care and custody of vulnerable populations must take unique steps to "flatten the curve" and slow the spread of this virus. Enforcing social distancing at the Jail will help mitigate the harm to detainees, staff, and the public from the COVID-19 outbreak.

32. Conditions related to COVID-19 are changing rapidly and may change between the time I execute this Declaration and when this matter appears before the Court.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my information and belief.

Assistant Professor of Epidemiology (Microbial Diseases)
Yale School of Public Health
350 George Street
New Haven, CT 06511
gregg.gonsalves@yale.edu

Date: April 14, 2020

Dr. Homer D. Venters

10 ½ Jefferson St., Port Washington, NY, 11050
hventers@gmail.com, Phone: 646-734-5994

HEALTH ADMINISTRATOR PHYSICIAN EPIDEMIOLOGIST

Professional Profile

- International leader in provision and improvement of health services to patients with criminal justice involvement.
- Innovator in linking care of the incarcerated to Medicaid, health homes, DSRIPs.
- Successful implementer of nations' first electronic health record, performance dashboards and health information exchange among pre-trial patients.
- Award winning epidemiologist focused on the intersection of health, criminal justice and human rights in the United States and developing nations.
- Human rights leader with experience using forensic science, epidemiology and public health methods to prevent and document human rights abuses.

Professional Experience

President, Community Oriented Correctional Health Services (COCHS), 1/1/2020-present.

- Lead COCHS efforts to provide technical assistance, policy guidance and research regarding correctional health and justice reform.
- Oversee operations and programmatic development of COCHS
- Serve as primary liaison between COCHS board, funders, staff and partners.

Senior Health and Justice Fellow, Community Oriented Correctional Health Services (COCHS), 12/1/18-12/31/2018

- Lead COCHS efforts to expand Medicaid waivers for funding of care for detained persons relating to Substance Use and Hepatitis C.
- Develop and implement COCHS strategy for promoting non-profit models of diversion and correctional health care.

Medical/Forensic Expert, 3/2016-present

- Provide expert input, review and testimony regarding health care, quality improvement, electronic health records and data analysis in detention settings.

Director of Programs, Physicians for Human Rights, 3/16-11/18.

- Lead medical forensic documentation efforts of mass crimes against Rohingya and Yazidi people.
- Initiate vicarious trauma program.
- Expand forensic documentation of mass killings and war crimes.
- Develop and support sexual violence capacity development with physicians, nurses and judges.
- Expand documentation of attacks against health staff and facilities in Syria and Yemen.

Chief Medical Officer/Assistant Vice President, Correctional Health Services, NYC Health and Hospitals Corporation 8/15-3/17.

- Transitioned entire clinical service (1,400 staff) from a for-profit staffing company model to a new division within NYC H + H.
- Developed new models of mental health and substance abuse care that significantly lowered morbidity and other adverse events.
- Connected patients to local health systems, DSRIP and health homes using approximately $5 million in external funding (grants available on request).
- Reduced overall mortality in the nation's second largest jail system.
- Increased operating budget from $140 million to $160 million.
- Implemented nation's first patient experience, provider engagement and racial disparities programs for correctional health.

Assistant Commissioner, Correctional Health Services, New York Department of Health and Mental Hygiene, 6/11-8/15.

- Implemented nation's first electronic medical record and health information exchange for 1,400 staff and 75,000 patients in a jail.
- Developed bilateral agreements and programs with local health homes to identify incarcerated patients and coordinate care.
- Increased operating budget of health service from $115 million to $140 million.
- Established surveillance systems for injuries, sexual assault and mental health that drove new program development and received American Public Health Association Paper of the Year 2014.
- Personally care for and reported on over 100 patients injured during violent encounters with jail security staff.

Medical Director, Correctional Health Services, New York Department of Health and Mental Hygiene, 1/10-6/11.

- Directed all aspects of medical care for 75,000 patients annually in 12 jails, including specialty, dental, primary care and emergency response.
- Direct all aspects of response to infectious outbreaks of H1N1, Legionella, Clostridium Difficile.
- Developed new protocols to identify and report on injuries and sexual assault among patients.

Deputy Medical Director, Correctional Health Services, New York Department of Health and Mental Hygiene, 11/08-12/09.

- Developed training program with Montefiore Social internal medicine residency program.
- Directed and delivered health services in 2 jails.

Clinical Attending Physician, Bellevue/NYU Clinic for Survivors of Torture, 10/07-12/11.

Clinical Attending Physician, Montefiore Medical Center Bronx NY, Adult Medicine, 1/08-11/09.

Education and Training

Fellow, Public Health Research, New York University 2007-2009. MS 6/2009
Projects: Health care for detained immigrants, Health Status of African immigrants in NYC.
Resident, Social Internal Medicine, Montefiore Medical Center/Albert Einstein University7/2004- 5/2007.
M.D., University of Illinois, Urbana, 12/2003.
M.S. Biology, University of Illinois, Urbana, 6/03.
B.A. International Relations, Tufts University, Medford, MA, 1989**.**

Academic Appointments, Licensure

Clinical Associate Professor, New York University College of Global Public Health, 5/18-present.

Clinical Instructor, New York University Langone School of Medicine, 2007-2018.

M.D. New York (2007-present).

Media

TV
i24 Crossroads re Suicide in U.S. Jails 8/13/19.

i24 Crossroads re re *Life and Death in Rikers Island* 6/13/19.

Amanpour & Company, NPR/PBS re *Life and Death in Rikers Island* 4/15/19.

CNN, Christiane Amanpour re Forensic documentation of mass crimes against Rohingya. 7/11/18.

i24 Crossroads with David Shuster re health crisis among refugees in Syria. 7/6/18.

Canadian Broadcasting Corporation TV with Sylvie Fournier (in French) re crowd control weapons. 5/10/18

i24 Crossroads with David Shuster re Cholera outbreak in Yemen. 2/15/18.

China TV re WHO guidelines on HIV medication access 9/22/17.

Radio/Podcast
Morning Edition, NPR re Health Risks of Criminal Justice System. 8/9/19.

Fresh Air with Terry Gross, NPR re *Life and Death in Rikers Island*, 3/6/19.

Morning Edition, NPR re *Life and Death in Rikers Island*, 2/22/19.

LeShow with Harry Sherer re forensic documentation of mass crimes in Myanmar, Syria,

Iraq. 4/17/18.

Print articles and public testimony
Oped: Four ways to protect our jails and prisons from coronavirus. The Hill 2/29/20.

Oped: It's Time to Eliminate the Drunk Tank. The Hill 1/28/20.

Oped: With Kathy Morse. A Visit with my Incarcerated Mother. The Hill 9/24/19.

Oped: With Five Omar Muallim-Ak. The Truth about Suicide Behind Bars is Knowable. The Hill 8/13/19.

Oped: With Katherine McKenzie. Policymakers, provide adequate health care in prisons and detention centers. CNN Opinion, 7/18/19.

Oped: Getting serious about preventable deaths and injuries behind bars. *The Hill*, 7/5/19.

Testimony: Access to Medication Assisted Treatment in Prisons and Jails, New York State Assembly Committee on Alcoholism and Drug Abuse, Assembly Committee on Health, and Assembly Committee on Correction**.** NY, NY, 11/14/18.

Oped: Attacks in Syria and Yemen are turning disease into a weapon of war, *STAT News*, 7/7/17.

Testimony: Connecticut Advisory Committee to the U.S. Commission on Civil Rights: Regarding the use of solitary confinement for prisoners. Hartford CT, 2/3/17.

Testimony: Venters HD, New York Advisory Committee to the U.S. Commission on Civil Rights: Regarding the use of solitary confinement for juveniles in New York. July 10, 2014. NY NY.

Testimony: New York State Assembly Committee on Correction with the Committee on Mental Health: Regarding Mental Illness in Correctional Settings. November 13, 2014. Albany NY.
Testimony: New York State Assembly Committee on Correction with the Committee on Mental Health: Regarding Mental Illness in Correctional Settings. November 13, 2014. Albany NY.

Oped: Venters HD and Keller AS, The Health of Immigrant Detainees. Boston Globe, April 11, 2009.

Testimony: U.S. House of Representatives, House Judiciary Committee's Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law: Hearing on Problems with Immigration Detainee Medical Care, June 4, 2008.

Peer Reviewed Publications

Parmar PK, Leigh J, **Venters H**, Nelson T. Violence and mortality in the Northern Rakhine State of Myanmar, 2017: results of a quantitative survey of surviving community leaders in Bangladesh. Lancet Planet Health. 2019 Mar;3(3):e144-e153.

Venters H. Notions from Kavanaugh hearings contradict medical facts. *Lancet.* 10/5/18.

Taylor GP, Castro I, Rebergen C, Rycroft M, Nuwayhid I, Rubenstein L, Tarakji A, Modirzadeh N, **Venters H**, Jabbour S. Protecting health care in armed conflict: action towards accountability. *Lancet.* 4/14/18.

Katyal M, Leibowitz R, **Venters H**. IGRA-Based Screening for Latent Tuberculosis Infection in Persons Newly Incarcerated in New York City Jails. *J Correct Health Care.* 2018 4/18.

Harocopos A, Allen B, Glowa-Kollisch S, **Venters H**, Paone D, Macdonald R. The Rikers Island Hot Spotters: Exploring the Needs of the Most Frequently Incarcerated.
J Health Care Poor Underserved. 4/28/17.

MacDonald R, Akiyama MJ, Kopolow A, Rosner Z, McGahee W, Joseph R, Jaffer M, **Venters H**. Feasibility of Treating Hepatitis C in a Transient Jail Population.
Open Forum Infect Dis. 7/7/18.

Siegler A, Kaba F, MacDonald R, **Venters H**. Head Trauma in Jail and Implications for Chronic Traumatic Encephalopathy. *J Health Care Poor and Underserved.* In Press (May 2017).

Ford E, Kim S, **Venters H**. Sexual abuse and injury during incarceration reveal the need for re-entry trauma screening. *Lancet.* 4/8/18.

Alex B, Weiss DB, Kaba F, Rosner Z, Lee D, Lim S, **Venters H,** MacDonald R. Death After Jail Release. *J Correct Health Care*. 1/17.

Akiyama MJ, Kaba F, Rosner Z, Alper H, Kopolow A, Litwin AH, **Venters H**, MacDonald R. Correlates of Hepatitis C Virus Infection in the Targeted Testing Program of the New York City Jail System. *Public Health Rep.* 1/17.

Kalra R, Kollisch SG, MacDonald R, Dickey N, Rosner Z, **Venters H**. Staff Satisfaction, Ethical Concerns, and Burnout in the New York City Jail Health System. *J Correct Health Care.* 2016 Oct;22(4):383-392.

Venters H. A Three-Dimensional Action Plan to Raise the Quality of Care of US Correctional Health and Promote Alternatives to Incarceration. *Am J Public Health*. April 2016.104.

Glowa-Kollisch S, Kaba F, Waters A, Leung YJ, Ford E, **Venters H**. From Punishment to Treatment: The "Clinical Alternative to Punitive Segregation" (CAPS) Program in New York City Jails. *Int J Env Res Public Health.* 2016. 13(2),182.

Jaffer M, Ayad J, Tungol JG, MacDonald R, Dickey N, Venters H. Improving Transgender Healthcare in the New York City Correctional System. *LGBT Health.* 2016 1/8/16.

Granski M, Keller A, Venters H. Death Rates among Detained Immigrants in the United States. *Int J Env Res Public Health.* 2015. 11/10/15.

Michelle Martelle, Benjamin Farber, Richard Stazesky, Nathaniel Dickey, Amanda Parsons, **Homer Venters**. Meaningful Use of an Electronic Health Record in the NYC Jail System. *Am J Public Health*. 2015. 8/12/15.

Fatos Kaba, Angela Solimo, Jasmine Graves, Sarah Glowa-Kollisch, Allison Vise, Ross MacDonald, Anthony Waters, Zachary Rosner, Nathaniel Dickey, Sonia Angell, **Homer Venters**. Disparities in Mental Health Referral and Diagnosis in the NYC Jail Mental Health Service. *Am J Public Health.* 2015. 8/12/15.

Ross MacDonald, Fatos Kaba, Zachary Rosner, Alison Vise, Michelle Skerker, David Weiss, Michelle Brittner, Nathaniel Dickey, **Homer Venters**. The Rikers Island Hot Spotters. *Am J Public Health*. 2015. 9/17/15.

Selling Molly Skerker, Nathaniel Dickey, Dana Schonberg, Ross MacDonald, **Homer Venters**. Improving Antenatal Care for Incarcerated Women: fulfilling the promise of the Sustainable Development Goals. *Bulletin of the World Health Organization*.2015.

Jasmine Graves, Jessica Steele, Fatos Kaba, Cassandra Ramdath, Zachary Rosner, Ross MacDonald, Nathanial Dickey, **Homer Venters**. Traumatic Brain Injury and Structural Violence among Adolescent males in the NYC Jail System *J Health Care Poor Underserved.* 2015;26(2):345-57.

Glowa-Kollisch S, Graves J, Dickey N, MacDonald R, Rosner Z, Waters A, **Venters H**. Data-Driven Human Rights: Using Dual Loyalty Trainings to Promote the Care of Vulnerable Patients in Jail. *Health and Human Rights*. Online ahead of print, 3/12/15.

Teixeira PA[1], Jordan AO, Zaller N, Shah D, **Venters H**. Health Outcomes for HIV-Infected Persons Released From the New York City Jail System With a Transitional Care-Coordination Plan. 2014. *Am J Public Health*. 2014 Dec 18.

Selling D, Lee D, Solimo A, **Venters H.** A Road Not Taken: Substance Abuse Programming in the New York City Jail System. *J Correct Health Care.* 2014 Nov 17.

Glowa-Kollisch S, Lim S, Summers C, Cohen L, Selling D, **Venters H**. Beyond the Bridge: Evaluating a Novel Mental Health Program in the New York City Jail System. *Am J Public Health*. 2014 Sep 11.

Glowa-Kollisch S, Andrade K, Stazesky R, Teixeira P, Kaba F, MacDonald R, Rosner Z, Selling D, Parsons A, **Venters H**. Data-Driven Human Rights: Using the Electronic Health Record to Promote Human Rights in Jail. *Health and Human Rights*. 2014. Vol 16 (1): 157-165.

MacDonald R, Rosner Z, **Venters H**. Case series of exercise-induced rhabdomyolysis in the New York City Jail System. *Am J Emerg Med*. 2014. Vol 32(5): 446-7.

Bechelli M, Caudy M, Gardner T, Huber A, Mancuso D, Samuels P, Shah T, **Venters H.** Case Studies from Three States: Breaking Down Silos Between Health Care and Criminal Justice. *Health Affairs*. 2014. Vol. 3. 33(3):474-81.

Selling D, Solimo A, Lee D, Horne K, Panove E, **Venters H**. Surveillance of suicidal and non-suicidal self-injury in the new York city jail system. *J Correct Health Care*. 2014. Apr:20(2).

Kaba F, Diamond P, Haque A, MacDonald R, **Venters H**. Traumatic Brain Injury Among Newly Admitted Adolescents in the New York City Jail System. *J Adolesc Health*. 2014. Vol 54(5): 615-7.

Monga P, Keller A, **Venters H**. Prevention and Punishment: Barriers to accessing health services for undocumented immigrants in the United States. *LAWS*. 2014. 3(1).

Kaba F, Lewsi A, Glowa-Kollisch S, Hadler J, Lee D, Alper H, Selling D, MacDonald R, Solimo A, Parsons A, **Venters H**. Solitary Confinement and Risk of Self-Harm Among Jail Inmates. *Amer J Public Health*. 2014. Vol 104(3):442-7.

MacDonald R, Parsons A, **Venters H.** The Triple Aims of Correctional Health: Patient safety, Population Health and Human Rights. *Journal of Health Care for the Poor and Underserved*. 2013. 24(3).

Parvez FM, Katyal M, Alper H, Leibowitz R, **Venters H.** Female sex workers incarcerated in New York City jails: prevalence of sexually transmitted infections and associated risk behaviors. *Sexually Transmitted Infections*. 89:280-284. 2013.

Brittain J, Axelrod G, **Venters H.** Deaths in New York City Jails: 2001 – 2009. *Am J Public Health*. 2013 103:4.

Jordan AO, Cohen LR, Harriman G, Teixeira PA, Cruzado-Quinones J, **Venters H.** Transitional Care Coordination in New York City Jails: Facilitating Linkages to Care for People with HIV Returning Home from Rikers Island. *AIDS Behav. Nov.* 2012.

Jaffer M, Kimura C, **Venters H.** Improving medical care for patients with HIV in New York City jails. *J Correct Health Care*. 2012 Jul;18(3):246-50.

Ludwig A, Parsons, A, Cohen, L, **Venters H.** Injury Surveillance in the NYC Jail System, *Am J Public Health* 2012 Jun;102(6).

Venters H, Keller, AS. *Psychiatric Services*. (2012) Diversion of Mentally Ill Patients from Court-ordered care to Immigration Detention. Epub. 4/2012.

Venters H, Gany, F. *Journal of Immigrant and Minority Health* (2011) Mental Health Concerns Among African Immigrants. 13(4): 795-7.

Venters H, Foote M, Keller AS. *Journal of Immigrant and Minority Health.* (2010) Medical Advocacy on Behalf of Detained Immigrants. 13(3): 625-8.

Venters H, McNeely J, Keller AS. *Health and Human Rights.* (2010) HIV Screening and Care for Immigration Detainees. 11(2) 91-102.

Venters H, Keller AS. *Journal of Health Care for the Poor and Underserved*. (2009) The Immigration Detention Health Plan: An Acute Care Model for a Chronic Care Population. 20:951-957.

Venters H, Gany, F. *Journal of Immigrant and Minority Health* (2009) African Immigrant Health. 4/4/09.

Venters H, Dasch-Goldberg D, Rasmussen A, Keller AS, *Human Rights Quarterly* (2009) Into the Abyss: Mortality and Morbidity among Detained Immigrant. 31 (2) 474-491.

Venters H, *The Lancet* (2008) Who is Jack Bauer? 372 (9653).

Venters H, Lainer-Vos J, Razvi A, Crawford J, Shaf'on Venable P, Drucker EM, *Am J Public Health* (2008) Bringing Health Care Advocacy to a Public Defender's Office. 98 (11).

Venters H, Razvi AM, Tobia MS, Drucker E. *Harm Reduct J.* (2006) The case of Scott Ortiz: a clash between criminal justice and public health. Harm Reduct J. 3:21

Cloez-Tayarani I, Petit-Bertron AF, **Venters HD**, Cavaillon JM (2003) *Internat. Immunol.* Differential effect of serotonin on cytokine production in lipopolysaccharide-stimulated human peripheral blood mononuclear cells.15,1-8.

Strle K, Zhou JH, Broussard SR, **Venters HD**, Johnson RW, Freund GG, Dantzer R, Kelley KW, (2002) *J. Neuroimmunol.* IL-10 promotes survival of microglia without activating Akt. 122, 9-19.

Venters HD, Broussard SR, Zhou JH, Bluthe RM, Freund GG, Johnson RW, Dantzer R, Kelley KW, (2001) *J. Neuroimmunol.* Tumor necrosis factor(alpha) and insulin-like growth factor-I in the brain: is the whole greater than the sum of its parts? 119, 151-65.

Venters HD, Dantzer R, Kelley KW, (2000) *Ann. N. Y. Acad. Sci.* Tumor necrosis factor-alpha induces neuronal death by silencing survival signals generated by the type I insulin-like growth factor receptor. 917, 210-20.

Venters HD, Dantzer R, Kelley KW, (2000) *Trends. Neurosci.* A new concept in neurodegeneration: TNFalpha is a silencer of survival signals. 23, 175-80.

Venters HD, Tang Q, Liu Q, VanHoy RW, Dantzer R, Kelley KW, (1999) *Proc. Natl. Acad. Sci. USA.* A new mechanism of neurodegeneration: A proinflammatory cytokine inhibits receptor signaling by a survival peptide, 96, 9879-9884.

Venters HD, Ala TA, Frey WH 2nd , (1998) Inhibition of antagonist binding to human brain muscarinic receptor by vanadium compounds. *Recept. Signal. Transduct.* 7, 137-142.

Venters HD, Tang Q, Liu Q, VanHoy RW, Dantzer R, Kelley KW, (1999) *Proc. Natl. Acad. Sci. USA.* A new mechanism of neurodegeneration: A proinflammatory cytokine inhibits receptor signaling by a survival peptide, 96, 9879-9884.

Venters HD, Ala TA, Frey WH 2nd , (1998) Inhibition of antagonist binding to human brain muscarinic receptor by vanadium compounds. *Recept. Signal. Transduct.* 7, 137-142**.**

Venters HD, Bonilla LE, Jensen T, Garner HP, Bordayo EZ, Najarian MM, Ala TA, Mason RP, Frey WH 2nd, (1997) Heme from Alzheimer's brain inhibits muscarinic receptor binding via thiyl radical generation. *Brain. Res.* 764, 93-100.

Kjome JR, Swenson KA, Johnson MN, Bordayo EZ, Anderson LE, Klevan LC, Fraticelli AI, Aldrich SL, Fawcett JR, **Venters HD**, Ala TA, Frey WH 2nd (1997) Inhibition of antagonist and agonist binding to the human brain muscarinic receptor by arachidonic acid. *J. Mol. Neurosci.* 10, 209-217.

Honors and Presentations (past 10 years)

Keynote Address, Academic Correctional Health Conference, April 2020, Chapel Hill, North Carolina.

TedMed Presentation, Correctional Health, Boston MA, March 2020.

Finalist, Prose Award for Literature, Social Sciences category for *Life and Death in Rikers Island*, February, 2020.

Keynote Address, John Howard Association Annual Benefit, November 2019, Chicago IL.

Keynote Address, Kentucky Data Forum, Foundation for a Healthy Kentucky, November 2019, Cincinnati Ohio.

Oral Presentation, Dual loyalty and other human rights concerns for physicians in jails an prisons. Association of Correctional Physicians, Annual meeting. 10/16, Las Vegas.

Oral Presentation, Clinical Alternatives to Punitive Segregation: Reducing self-harm for incarcerated patients with mental illness. American Public Health Association Annual Meeting, November 2015, Chicago IL.

Oral Presentation, Analysis of Deaths in ICE Custody over 10 Years . American Public Health Association Annual Meeting, November 2015, Chicago IL.

Oral Presentation, Medication Assisted Therapies for Opioid Dependence in the New York City Jail System. American Public Health Association Annual Meeting, November 2015, Chicago IL.

Oral Presentation, Pathologizing Normal Human Behavior: Violence and Solitary Confinement in an Urban Jail. American Public Health Association Annual Meeting, November 2014, New Orleans, LA.

Training, International Committee of the Red Cross and Red Crescent, Medical Director meeting 10/15, Presentation on Human Rights and dual loyalty in correctional health.

Paper of the Year, American Public Health Association. 2014. (Kaba F, Lewis A, Glowa-Kollisch S, Hadler J, Lee D, Alper H, Selling D, MacDonald R, Solimo A, Parsons A, Venters H. Solitary Confinement and Risk of Self-Harm Among Jail Inmates. *Amer J Public Health*. 2014. Vol 104(3):442-7.)

Oral Presentation, Pathologizing Normal Human Behavior: Violence and Solitary Confinement in an Urban Jail. *American Public Health Association* Annual Meeting, New Orleans LA, 2014.

Oral Presentation, Human rights at Rikers: Dual loyalty among jail health staff. American Public Health Association Annual Meeting, New Orleans LA, 2014.

Poster Presentation, Mental Health Training for Immigration Judges. American Public Health

Association Annual Meeting, New Orleans LA, 2014.

Distinguished Service Award; Managerial Excellence. Division of Health Care Access and Improvement, NYC DOHMH. 2013.

Oral Presentation, Solitary confinement in the ICE detention system. American Public Health Association Annual Meeting, Boston MA, 2013.

Oral Presentation, Self-harm and solitary confinement in the NYC jail system. American Public Health Association Annual Meeting, Boston MA, 2013.

Oral Presentation, Implementing a human rights practice of medicine inside New York City jails. American Public Health Association Annual Meeting, Boston MA, 2013.

Poster Presentation, Human Rights on Rikers: integrating a human rights-based framework for healthcare into NYC's jail system. *American Public Health Association* Annual Meeting, Boston MA, 2013.

Poster Presentation, Improving correctional health care: health information exchange and the affordable care act. *American Public Health Association* Annual Meeting, Boston MA, 2013.

Oral Presentation, Management of Infectious Disease Outbreaks in a Large Jail System. American Public Health Association Annual Meeting, Washington DC, 2011.

Oral Presentation, Diversion of Patients from Court Ordered Mental Health Treatment to Immigration Detention. *American Public Health Association* Annual Meeting, Washington DC, 2011.

Oral Presentation, Initiation of Antiretroviral Therapy for Newly Diagnosed HIV Patients in the NYC Jail System. *American Public Health Association* Annual Meeting, Washington DC, 2011.

Oral Presentation, Medical Case Management in Jail Mental Health Units. *American Public Health Association* Annual Meeting, Washington DC, 2011.

Oral Presentation, Injury Surveillance in New York City Jails. *American Public Health Association* Annual Meeting, Washington DC, 2011.

Oral Presentation, Ensuring Adequate Medical Care for Detained Immigrants. Venters H, Keller A, American Public Health Association Annual Meeting, Denver, CO, 2010.

Oral Presentation, HIV Testing in NYC Correctional Facilities. Venters H and Jaffer M, *American Public Health Association,* Annual Meeting, Denver, CO, 2010.

Oral Presentation, Medical Concerns for Detained Immigrants. Venters H, Keller A, *American Public Health Association* Annual Meeting, Philadelphia, PA, November 2009.

Oral Presentation, Growth of Immigration Detention Around the Globe. Venters H, Keller A, *American Public Health Association* Annual Meeting, Philadelphia, PA, November 2009.

Oral Presentation, Role of Hospital Ethics Boards in the Care of Immigration Detainees. Venters H, Keller A, *American Public Health Association* Annual Meeting, Philadelphia, PA,

November 2009.

Oral Presentation, Health Law and Immigration Detainees. Venters H, Keller A, *American Public Health Association* Annual Meeting, Philadelphia, PA, November 2009.

Bro Bono Advocacy Award, Advocacy on behalf of detained immigrants. Legal Aid Society of New York, October 2009.

Oral Presentation, Deaths of immigrants detained by Immigration and Customs Enforcement. Venters H, Rasmussen A, Keller A, *American Public Health Association* Annual Meeting, San Diego CA, October 2008.

Poster Presentation, Death of a detained immigrant with AIDS after withholding of prophylactic Dapsone. Venters H, Rasmussen A, Keller A, *Society of General Internal Medicine* Annual Meeting, Pittsburgh PA, April 2008.

Poster Presentation, Tuberculosis screening among immigrants in New York City reveals higher rates of positive tuberculosis tests and less health insurance among African immigrants. *Society of General Internal Medicine* Annual Meeting, Pittsburgh PA, April 2008.

Daniel Leicht Award for Achievement in Social Medicine, Montefiore Medical Center, Department of Family and Social Medicine, 2007.

Poster Presentation, Case Findings of Recent Arestees. Venters H, Deluca J, Drucker E. *Society of General Internal Medicine* Annual Meeting, Toronto Canada, April 2007.

Poster Presentation, Bringing Primary Care to Legal Aid in the Bronx. Venters H, Deluca J, Drucker E. *Society of General Internal Medicine* Annual Meeting, Los Angeles CA, April 2006.

Poster Presentation, A Missed Opportunity, Diagnosing Multiple Myeloma in the Elderly Hospital Patient. Venters H, Green E., *Society of General Internal Medicine* Annual Meeting, New Orleans LA, April 2005.

Grants: Program

San Diego County: Review of jail best practices (COCHS), 1/2020, $90,000.

Ryan White Part A - Prison Release Services (PRS). From HHS/HRSA to Correctional Health Services (NYC DOHMH), 3/1/16-2/28/17 (Renewed since 2007). Annual budget $ 2.7 million.

Ryan White Part A - Early Intervention Services- Priority Population Testing. From HHS/HRSA to Correctional Health Services (NYC DOHMH), 3/1/16-2/28/18 (Renewed since 2013). Annual budget $250,000.

Comprehensive HIV Prevention. From HHS to Correctional Health Services (NYC DOHMH), 1/1/16-12/31/16. Annual budget $500,000.

HIV/AIDS Initiative for Minority Men. From HHS Office of Minority Health to Correctional Health Services (NYC DOHMH), 9/30/14-8/31/17. Annual budget $375,000.

SPNS Workforce Initiative, From HRSA SPNS to Correctional Health Services (NYC DOHMH), 8/1/14-7/31/18. Annual budget $280,000.

SPNS Culturally Appropriate Interventions. From HRSA SPNS to Correctional Health Services (NYC DOHMH), 9/1/13-8/31/18. Annual budget $290,000.

Residential substance abuse treatment. From New York State Division of Criminal Justice Services to Correctional Health Services (NYC DOHMH), 1/1/11-12/31/17. Annual budget $175,000.

Community Action for Pre-Natal Care (CAPC). From NY State Department of Health AIDS Institute to Correctional Health Services (NYC DOHMH), 1/1/05-12/31/10. Annual budget $290,000.

Point of Service Testing. From MAC/AIDS, Elton John and Robin Hood Foundations to Correctional Health Services (NYC DOHMH), 11/1/09-10/31/12. Annual budget $100,000.

Mental Health Collaboration Grant. From USDOJ to Correctional Health Services (NYC DOHMH), 1/1/11-9/30/13. Annual budget $250,000.

Teaching

Instructor, Health in Prisons Course, Bloomberg School of Public Health, Johns Hopkins University, June 2015, June 2014, April 2019.

Instructor, Albert Einstein College of Medicine/Montefiore Social Medicine Program Yearly lectures on Data-driven human rights, 2007-present.

Other Health & Human Rights Activities

DIGNITY Danish Institute Against Torture, Symposium with Egyptian correctional health staff regarding dual loyalty and data-driven human rights. Cairo Egypt, September 20-23, 2014.

Doctors of the World, Physician evaluating survivors of torture, writing affidavits for asylum hearings, with testimony as needed, 7/05-11/18.

United States Peace Corps, Guinea Worm Educator, Togo West Africa, June 1990- December 1991.

-*Primary Project;* Draconculiasis Eradication. Activities included assessing levels of infection in 8 rural villages and giving prevention presentations to mothers in Ewe and French
-*Secondary Project;* Malaria Prevention.

Books

Venters H. *Life and Death in Rikers Island*. Johns Hopkins University Press. 2/19.

Chapters in Books

Venters H. Mythbusting Solitary Confinement in Jail. In Solitary Confinement Effects, Practices, and Pathways toward Reform. Oxford University Press, 2020.

MacDonald R. and **Venters H.** Correctional Health and Decarceration. In Decarceration. Ernest Drucker, New Press, 2017.

Membership in Professional Organizations

American Public Health Association

Foreign Language Proficiency

French	Proficient
Ewe	Conversant

Prior Testimony and Deposition

Benjamin v. Horn, 75 Civ. 3073 (HB) (S.D.N.Y.) as expert for defendants, 2015

Rodgers v. Martin 2:16-cv-00216 (U.S.D.C. N.D.Tx) as expert for plaintiffs, 10/19/17

Fikes v. Abernathy, 2017 7:16-cv-00843-LSC (U.S.D.C. N.D.AL) as expert for plaintiffs 10/30/17.

Fernandez v. City of New York, 17-CV-02431 (GHW)(SN) (S.D.NY) as defendant in role as City Employee 4/10/18.

Charleston v. Corizon Health INC, 17-3039 (U.S.D.C. E.D. PA) as expert for plaintiffs 4/20/18.

Gambler v. Santa Fe County, 1:17-cv-00617 (WJ/KK) as expert for plaintiffs 7/23/18.

Hammonds v. Dekalb County AL, CASE NO.: 4:16-cv-01558-KOB as expert for plaintiffs 11/30/2018.

Mathiason v. Rio Arriba County NM, No. D-117-CV-2007-00054, as expert for plaintiff 2/7/19.

Hutchinson v. Bates et. al. AL, No. 2:17-CV-00185-WKW- GMB, as expert for plaintiff 3/27/19.

Lewis v. East Baton Rouge Parish Prison LA, No. 3:16-CV-352-JWD-RLB, as expert for plaintiff 6/24/19.

Belcher v. Lopinto, No No. 2:2018cv07368 - Document 36 (E.D. La. 2019) as expert for plaintiffs 12/5/2019.

Fee Schedule

Case review, reports, testimony $500/hour.
Site visits and other travel, $2,500 per day (not including travel costs).

EXHIBIT I

Curriculum Vitae

Date Prepared:	**4 February 2020**
Name:	**Amir M. Mohareb**
Office Address:	**100 Cambridge Street, 16th Floor (1661J), Boston, MA 02114**
Home Address:	**Cambridge, MA 02138**
Work Phone:	**+1-617-643-6653**
Work Email:	**amohareb@mgh.harvard.edu**
Place of Birth:	Birmingham, United Kingdom

Education:

05/2008	BSc (Honors)	Chemistry	York University
05/2013	MD	Medicine	Johns Hopkins University School of Medicine
08/2018	Certificate	Program in Clinical Effectiveness	Harvard T.H. Chan School of Public Health

Postdoctoral Training:

07/13-06/14	Internship	Internal Medicine	Yale-New Haven Hospital
07/14-06/16	Residency	Internal Medicine	Yale-New Haven Hospital
07/16-06/17	Chief Residency	Internal Medicine	Yale-New Haven Hospital
07/17-06/18	Clinical Fellowship	Infectious Diseases	Brigham & Women's Hospital/ Massachusetts General Hospital
07/18-06/20	Research Fellowship	Infectious Diseases	Brigham & Women's Hospital/ Massachusetts General Hospital

Faculty Academic Appointments:

07/19- present	Instructor	Medicine	Harvard Medical School

Appointments at Hospitals/Affiliated Institutions:

07/16-06/17	Assistant in Medicine	Medicine	Yale-New Haven Hospital
07/16-06/17	Attending Physician	Medicine	West Haven VA Medical Center

07/19- present	Assistant in Medicine	Medicine (Infectious Diseases)	Massachusetts General Hospital

Other Professional Positions:

2010-11	Research Fellow	Johns Hopkins University School of Medicine and National Center for Preparedness and Catastrophic Event Response

Committee Service:

Local

2016-17	Residency Selection Committee	Yale University Internal Medicine Residency
2016-17	Global Health Committee	Yale University Office of Global Health

Professional Societies:

2016-present	Society for Refugee Health Providers	Member
2017-present	Infectious Diseases Society of America	Member
2019-present	American Association for the Study of Liver Diseases	Member

Editorial Activities:

- **Ad hoc Reviewer**

Annals of Internal Medicine (commended reviewer)

Open Forum Infectious Diseases

Journal of Immigrant and Minority Health

BMJ Open

Honors and Prizes:

2009	Dean's Research Scholarship	Johns Hopkins University School of Medicine	For research on tuberculosis relapse in Morocco
2010	Dean's Research Scholarship	Johns Hopkins University School of Medicine	For research on HIV and influenza

2011	National Student Research Award	Infectious Diseases Society of America	For innovative research on HIV
2011	Research Day Award	Johns Hopkins University, Department of Emergency Medicine	Top research presentation by a trainee
2015	Johnson & Johnson Global Health Scholarship	Yale University Office of Global Health	Scholarship to undertake international clinical elective in Kigali, Rwanda
2016	Yale Office-Based Medicine Scholarship and Innovation Fund	Yale University Department of General Internal Medicine	For clinical innovations in Refugee Health
2016	Yale Primary Care Center Award	Yale University Department of Internal Medicine	For achievements and innovations in primary care
2017	Yogesh Khanal Global Health Award	Yale University Department of Internal Medicine	For research, education, and clinical leadership in global health
2019	David Brudnoy Scholarship	Massachusetts General Hospital Division of Infectious Diseases	For pursuit of coursework in HIV-related research
2020	European Association for the Study of the Liver	Young Investigator Award	Highly rated abstract in the 2020 International Liver Congress on hepatitis B simulation modeling

Report of Funded and Unfunded Projects

Current

2018- 2020 AIDS Clinical Research Training Fellowship
NIAID T32 AI007433 (PI: Freedberg)
Trainee Appointment
Fellowship project to evaluate the cost-effectiveness of hepatitis B care in HIV-endemic low- and middle-income countries

Report of Local Teaching and Training

Teaching of Students in Courses:

2016-2017	Weekly Case Conference Internal Medicine Clerkship Students	Yale University School of Medicine and West Haven VA Medical Center 4 hours/ week

Formal Teaching of Residents, Clinical Fellows and Research Fellows (post-docs):

2016- 2017	Morning Report Internal Medicine Residents	Yale-New Haven Hospital and West Haven VA Medical Center 4 hours/ week

Clinical Supervisory and Training Responsibilities:

2016-2017	Inpatient Ward Attending Internal Medicine residents	Yale-New Haven Hospital and West Haven VA Medical Center 12 weeks
2016-2017	Ambulatory Internal Medicine Clinic Preceptor Internal Medicine residents	Yale Primary Care Center 8 hours/ month
2016- 2017	Refugee Clinic Preceptor Internal Medicine residents and medical students	Yale Refugee Clinic 8 hours/ month
2019	Visiting Ward Consultant Internal Medicine residents	St. Paul's Teaching Hospital, Addis Ababa, Ethiopia (2 weeks)

Formal Teaching of Peers (e.g., CME and other continuing education courses):

No presentations below were sponsored by 3rd parties/outside entities

2016- 2017	Physical and Mental Health of Refugees (CME)	Two presentations Yale University School of Medicine (New Haven, USA)

Local Invited Presentations:

No presentations below were sponsored by 3rd parties/outside entities

2016	Refugee Medicine: Global Crisis and Local Response / Local Conference Presentation Yale University Office of Global Health: Annual Global Health Day
2017	Refugee Medicine: Local Lens into Global Health / Grand Rounds Yale University Department of Medicine
2019	Patterns of Exclusion: HIV Travel Ban to Refugees and Asylum Seekers Massachusetts General Hospital, Division of Infectious Diseases, Weekly HIV Conference
2019	Border Closures and Family Separation: Lessons from the HIV Travel Ban Massachusetts General Hospital, HIV Online Provider education (HOPE) Conference
2019	Border Closures and Family Separation: Lessons from the HIV Travel Ban Brigham & Women's Hospital, Division of Infectious Diseases, Weekly HIV Conference

Report of Regional, National and International Invited Teaching and Presentations

No presentations below were sponsored by 3rd parties/outside entities

Regional

2016	Local Global Health: Evaluation of Asylum Seekers, Care for Refugees Invited Presentation in Society for General Internal Medicine, New England Regional Conference New Haven, USA

International

2018	Simulation Modeling in the Elimination of Hepatitis B Invited presentation at the Hepatitis B Research Symposium organized by Programme PACCI Grand Bassam, Côte d'Ivoire
2019	Zika Virus: Implications for Africa Invited presentation at the 4th Annual Advanced Course in Infectious Diseases and Tropical Medicine organized by Aklilu Lemma Institute of Pathobiology (Addis Ababa University), Ulleval Centre for Imported and Tropical Diseases (Oslo University), and Black Lion Teaching Hospital (Addis Ababa) Addis Ababa, Ethiopia

Report of Clinical Activities and Innovations

Current Licensure and Certification:

2014	Diplomate, National Board of Medical Examiners
2016	Diplomate, American Board of Internal Medicine
2019	Diplomate, American Board of Internal Medicine, specialty of Infectious Diseases
2019-present	Unrestricted Medical License in Massachusetts

Practice Activities:

2014- 2017	Clinic Coordinator	Yale Refugee Clinic	Evening clinic (4 hours / week)
2016- 2017	Inpatient Ward Attending Physician	Yale-New Haven Hospital and West Haven VA Medical Center	Inpatient teaching service (12 weeks)
2016- 2017	Ambulatory Clinic Attending Physician	Yale Primary Care Center	Resident clinic (8 hours/ month)
2016- 2017	Ambulatory Clinic Attending Physician	Yale Refugee Clinic	Evening clinic (8 hours/ month)
2019-present	Attending Physician	Infectious Diseases Consult Service, MGH	6 weeks/ year

Clinical Innovations:

Yale Refugee Clinic Student Navigator Program (New Haven, USA)	I designed and implemented a patient navigator program at the Yale University School of Medicine wherein medical student volunteers are paired with newly resettled refugee families to assist them in navigating the health system. Student navigators provided counseling for medication and appointment adherence and learned core lessons about primary care and refugee health. This program was supported by an institutional grant and was presented at the North American Refugee Health Conference 2017.
Adaptation of WHO Dengue Guidelines to Pacific Islands (Yap, Micronesia)	From September- October 2019, I was deployed to Yap, Micronesia, to provide emergency clinical assistance and humanitarian support during a large-scale Dengue outbreak. I provided multiple layers of support, including clinical care for critically ill patients, daily rounds with medical and nursing staff, community outreach and vector control, and participation in weekly public health and response meetings. I led in adapting and implementing the WHO Dengue Guidelines within the local health system's resource constraints.

Report of Education of Patients and Service to the Community

No presentations below were sponsored by 3rd parties/outside entities

Activities

2016- 2017	Yale Refugee Clinic and Integrated Refugee and Immigrant Services (New Haven, USA) I helped organize community educational sessions for newly resettled refugees on topics such as smoking cessation, prenatal health, women's health, and mental health. The sessions were localized in the offices of a local refugee resettlement agency. This program was presented at the North American Refugee Health Conference (2018- 2019).

Recognition:

2017	Interviewed in *Resettled: New Haven's Refugee Community* (Documentary) Available at: https://vimeo.com/216225933	Produced by Politic.
2017	Interviewed in, "Caring for New Haven's Refugees." (Article)	*Yale Medicine Magazine*. Spring 2017, Vol 51, No. 3.
2018	Interviewed in, "What's The Responsibility Of Doctors When It Comes To Yemen?" 21 November 2018. Available at: https://www.npr.org/sections/goatsandsoda/2018/11/21/670062517/whats-the-responsibility-of-doctors-when-it-comes-to-yemen	National Public Radio (NPR)
2018	Publication featured in hospital and medical school press release: "Two physicians condemn use of disease and famine as weapons of war in Yemen." (Press Release). 21 November 2018. Available at: https://hms.harvard.edu/news/manmade-medical-disasters https://www.massgeneral.org/News/pressrelease.aspx?id=231	Harvard Medical School and MGH Office of Communications

2018	Interviewed in *New England Journal of Medicine* Audio Interview (podcast). 27 December 2018. Available at www.nejm.org	*New England Journal of Medicine*

Report of Scholarship

ORCID: 0000-0002-3761-6154

Peer-Reviewed Scholarship in print or other media:

Research Investigations

1. Jackson DR, **Mohareb A**, MacNeil J, Razul MS, Marangoni DG, and Poole PH. Simulations of a lattice model of two-headed linear amphiphiles: influence of amphiphile asymmetry. *J Chem Phys*. 2011 May 28;134(20):204503. PMID: 21639452.

2. Dugas AF, Hsieh YH, Levin SR, Pines JM, Mareiniss DP, **Mohareb A**, Gaydos CA, Perl TM, and Rothman RE. Google Flu Trends: correlation with emergency department influenza rates and crowding metrics. *Clin Infect Dis*. 2012 Feb 15;54(4):463-9. PMID: 22230244.

3. Korley FK, Morton MJ, Hill PM, Mundangepfupfu T, Zhou T, **Mohareb AM**, and Rothman RE. Agreement between routine emergency department care and clinical decision support recommended care in patients evaluated for mild traumatic brain injury. *Acad Emerg Med*. 2013 May;20(5):463-9. PMID: 23672360.

4. **Mohareb AM**, Rothman RE, and Hsieh YH. Emergency department (ED) utilization by HIV-infected ED patients in the United States in 2009 and 2010 - a national estimation. *HIV Med*. 2013 Nov;14(10):605-13. PMID: 23773723.

5. Fournier R, and **Mohareb A**. Optimizing molecular properties using a relative index of thermodynamic stability and global optimization techniques. *J Chem Phys*. 2016 Jan 14;144(2):024114. PMID: 26772561.

6. **Mohareb AM**, Dugas AF, and Hsieh YH. Changing epidemiology and management of infectious diseases in US EDs. *Am J Emerg Med*. 2016 Jun;34(6):1059-65. PMID: 27041249

Other peer-reviewed scholarship

1. Stahl M, **Mohareb AM**, Lee AI, Federman DG, Siddon AJ, and Spelman J. Multi-system complications of hypereosinophilia. *Am J Hematol*. 2016 Jun;91(4):444-7. PMID: 26700720.

2. Raja J, **Mohareb AM**, and Bilori B. Recurrent urinary tract infections in an adult with a duplicated renal collecting system. *Radiol Case Rep*. 2016 Dec;11(4):328-331. PMID: 27920854.

3. Bernardo R, Streiter S, Tiberio P, Rodwin BA, **Mohareb A**, Ogbuagu O, Emu B, and Meyer JP. Answer to December 2017 Photo Quiz. *J Clin Microbiol*. 2017 Dec;55(12):3568. PMID: 29180506.

4. Bernardo R, Streiter S, Tiberio P, Rodwin BA, **Mohareb A**, Ogbuagu O, Emu B, and Meyer JP. Photo Quiz: Peripheral blood smear in a Ugandan refugee. *J Clin Microbiol*. 2017 Dec;55(12):3313-3314. PMID: 29180502.

5. **Mohareb AM**, and Ivers LC. Disease and famine as weapons of war in Yemen. *N Engl J Med*. 2019 Jan 10;380(2):109-111. PMID: 30462588

Non-peer reviewed scholarship in print or other media:

Reviews, chapters, monographs and editorials

1. **Mohareb AM**, Walensky RP, Hyle EP. Correcting the contradictions: Immigration policy and HIV. *Health Affairs* Blog. November 8, 2019. doi:10.1377/hblog20191108.169361

2. **Mohareb AM**, and Hyle EP. HIV and Other Sexually Transmitted Infections: Considerations for Refugees. In: Annamalai A, ed. Refugee Health Care: An Essential Guide, 2nd Edition. Springer: In press.

Abstracts, Poster Presentations and Exhibits Presented at Professional Meetings:

1. **Mohareb AM**, Ikuta K, Kothari D, Cheng C, Annamalai A. Rate of completion of immunization series in a cohort of refugees in Connecticut, USA. Podium presentation in the North American Refugee Health Conference, Toronto, Canada. June 2015.

2. Gunawan F, Bourdillon P, **Mohareb AM**, Godier-Furnemont A, Brown B, Annamalai A. Piloting a patient navigator program for refugee patients at an academic primary care center. Poster at the North American Refugee Health Conference, Toronto, Canada. June 2017.

3. Cheng F, **Mohareb AM**, Shackleford S, Kramer E, Fox S, Jepson L, Riffle R, Bisset A, Brown C. Development and piloting of a multi-disciplinary refugee health literacy program. Poster at the North American Refugee Health Conference, Toronto, Canada. June 2017.

4. Brown B, **Mohareb AM**, Gunawan F, Annamalai A. Assessing Utility of Routine Urinalysis in the refugee health examination. Poster at the North American Refugee Health Conference, Toronto, Canada. June 2017.

5. **Mohareb AM**, Brown B, Gunawan F, Datta R, Annamalai A, Barakat L. Latent tuberculosis infection in a cohort of refugee patients resettling in New England. Poster at IDWeek, San Diego, USA. October 2017.

6. **Mohareb AM**, Kim AY, Boyd A, Noubary F, Kouamé MG, Eholié DP, Freedberg KA, Walensky RP, Hyle EP. A novel microsimulation model of chronic hepatitis b (HBV): validation of HBV viral dynamics and cumulative incidence of hepatocellular carcinoma. To be presented at: International Liver Congress, London, United Kingdom. April 15-19, 2020.

EXHIBIT J

Submitted in native Excel format to the Court and Counsel via email

EXHIBIT K

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES – GENERAL

Case No.	5:13-cv-0444-VAP-OPx	Date	April 14, 2020
Title	*Quinton Gray v. County of Riverside*		

Present: The Honorable	VIRGINIA A. PHILLIPS, CHIEF UNITED STATES DISTRICT JUDGE

CHRISTINE CHUNG	Not Reported
Deputy Clerk	Court Reporter
Attorney(s) Present for Plaintiff(s):	Attorney(s) Present for Defendant(s):
None Present	None Present

Proceedings: (IN CHAMBERS) MINUTE ORDER GRANTING "EMERGENCY MOTION TO ENFORCE CONSENT DECREE" [DKT. 177]

On April 6, 2020, Plaintiff Quinton Gray ("Plaintiff") filed a document captioned "Emergency Motion[1] to Enforce Consent Decree." ("Motion," Dkt. 177). Pursuant to this Court's April 8, 2020 Minute Order, (Dkt. 182), Defendant County of Riverside ("Defendant") opposed the Motion on April 10, 2020 ("Opp.," Dkt. 183). After considering all papers submitted in support of, and in opposition to, the Motion, as well as the arguments advanced during the telephonic hearing on April 13, 2020, the Court GRANTS the Motion.

In 2016, the Parties entered into a Consent Decree "to ensure the provision of constitutional health care and to ensure non-discrimination for inmates with disabilities in the Riverside County Jails." (Dkt. 173 ¶ 1). The plaintiff class includes three distinct subclasses: the medical subclass, which comprises "[a]ll prisoners who are now, or will in the future be, subjected to the medical care policies and practices of the Riverside

[1] The Court notes that an "Emergency Motion" is procedurally improper. Plaintiff should have filed an ex parte application to shorten time for hearing on a motion, in conformance with Local Rule 7-19. In the interests of justice, the Court will treat Plaintiff's Motion as though it had been filed properly.

Jails"; the mental health subclass, which comprises "[a]ll prisoners who are now, or will in the future be, subjected to the mental health care policies and practices of the Riverside Jails"; and the disability subclass, which comprises "all prisoners who are now, or will be in the future, subjected to policies and practices of the Riverside jails regarding specialized or sheltered housing for prisoners due to their mobility impairments and need for assistive devices, and the provision and confiscation of accommodations for prisoners with mobility impairments[.]" (Dkt. 173 ¶ 3).

The Parties to the Consent Decree negotiated a Remedial Plan, which "is designed to meet the minimum level of health care necessary to fulfill Defendant's obligations under the Eighth and Fourteenth Amendments, as well as to ensure non-discrimination against inmates with disabilities in the areas addressed by the Plan, as required by the ADA and Section 504 of the Rehabilitation Act." (Dkt. 173 ¶ 9). In light of the coronavirus ("COVID-19") pandemic[2], "Plaintiffs seek to enforce the Consent Decree by requiring the County to submit a plan to the Court to implement the Governor's order for physical distancing for all Californians housed in the jails and to provide sanitation and other essential services generally accepted as necessary in correctional facilities to provide for the basic health needs of incarcerated people." (Motion at 3-4).

As Defendant argues, the Consent Decree specifies a dispute resolution process which provides that the Parties first conduct negotiations to resolve informally matters in dispute, then, if they are unable to resolve the dispute, to request that the Relevant Court experts evaluate the issue and prepare a report. Following preparation of this report, if the parties still are unable to resolve the issue, they may request mediation with Judge Raul Ramirez. Only after having mediated are the parties to file a motion for relief with this Court. (Dkt. 173 ¶¶ 26–29). Here, the parties have conducted the first two steps, but have not yet mediated. Nevertheless, "[g]iven the urgent nature of the proceedings, Plaintiffs request the Court modify the Consent Decree to allow for urgent appeal for enforcement directly to the Court." (Motion at 17 n.2).

[2] The pandemic has caused unprecedented disruption to daily life. On March 13, 2020, the President of the United States declared a National Emergency in response to the Coronavirus Disease- 2019 ("COVID-19") pandemic pursuant to the National Emergencies Act (50 U.S.C. § 1601, et seq.). California Governor Gavin Newson has declared a state of emergency in response to the COVID-19 outbreak and, in his March 19, 2020 Executive Order N-33-20, "require[d] physical distancing to keep Californians at least six feet apart at all times and to prepare hospitals and health care workers for the coming surge in cases." (Motion at 2).

The Court finds good cause to modify the Consent Decree to permit appeal to this Court. "[A] party seeking modification of a consent decree bears the burden of establishing that a significant change in circumstances warrants revision of the decree. . . . A party seeking modification of a consent decree may meet its initial burden by showing either a significant change either in factual conditions or in law."" *Rufo v. Inmates of Suffolk Cty. Jail*, 502 U.S. 367, 383–84 (1992). The party seeking modification need not prove the change in circumstance was "unforeseen and unforeseeable" at the time of entering into the consent decree, but "[o]rdinarily, . . . modification should not be granted where a party relies upon events that *actually were anticipated* at the time it entered into a decree." *Id*. at 385 (emphasis added). Here, clearly, the emergency resulting from the pandemic constitutes a "significant change in circumstances" that was not actually foreseen at the time the parties entered into the Consent Decree. *Id*. at 383.

The parties therefore meet the standard to modify the Consent Decree to permit appeal to this Court. In light of the urgency of the matter, the Court orders a two-track dispute resolution mechanism. The Parties are to proceed with mediation before Judge Ramirez on April 17, 2020, or an earlier date, if possible. (*See* Opp. at 10). The Court simultaneously assumes jurisdiction to enforce the Consent Decree to the extent specified in this Order.

The Court next turns to Defendant's obligations under the Consent Decree. Plaintiff seeks to enforce the Consent Decree's mandate to "meet the minimum level of health care necessary to fulfill Defendant's obligations under the Eighth and Fourteenth Amendments," (Dkt. 173 ¶ 9), by ensuring that Defendants implement the physical distancing recommendations made by the Court's experts, (*see* Dkt. 178, Ex. J, Allen Expert Report, ¶¶ 9-10, 14-16; Dkt. 178, Ex. K, Gage Expert Report, ¶¶ 5-10.). Plaintiff argues that the County has several options available to limit the spread of the disease within the jails, including transferring prisoners to new, currently empty, John J. Benoit Detention Center ("JJBDC") in Indio, California; relocating particularly vulnerable prisoners; and even release people to allow for physical distancing. (Motion at 4). At the hearing, Defendant did not have information regarding conditions in the existing county jail facilities, insisted that moving prisoners to a newly completed, empty jail in Indio was not feasible, and admitted that it had not researched alternative housing options such as recreation centers, halfway houses, and hotels. Rather than having created a plan to safeguard those most vulnerable to the COVID-19 virus, Defendant conceded that it has not conducted an analysis of its own records to identify particularly vulnerable prisoners. It also has not conducted an analysis of its jail population to determine whether there are any low-level offenders who might be eligible for early release.

Despite Defendant's insistence that conditions in the Riverside County jails are compliant with public health recommendations regarding social distancing, its counsel lacked information to respond to the Court's questions regarding the ability to maintain 6 feet distance between all prisoners in the jail, at all times, its plan for doing so, the size of cells and dormitories, and the number of prisoners per room.

Defendant failed to provide satisfactory information about the feasibility of transfer of prisoners to other jail or non-jail facilities, including transfers of prisoners currently confined in crowded jails to the new, empty, John J. Benoit Detention Center ("JJBDC") in Indio, California. The County states that it is "not-yet-ready to be populated" but provides no details as to why. (Opp. at 13). The County stated at the hearing that the facility was completed in February 2020, but maintained that it is not yet ready for prisoners. In their papers and at the hearing, Defendant argued that "[t]he Sheriff's Department is currently in the midst of a ninety day 'transition period' of the facility to determine whether any issues arise that will need to be resolved before JJBDC can be populated with inmates." (Dkt. 183-4, "Graves Decl." ¶ 4). The County states that the technology used in the JJBDC facility differs from that of other County facilities, but did not explain, in its papers or at the hearing, why this would prevent the transfer of inmates in an emergency situation. (Graves Decl. ¶ 5).

Should the County be unable to implement adequate social distancing within its existing jail facilities and take other necessary steps to decrease risk of infection, this Court has the authority to order the transfer of prisoners to different facilities. Under California law, the Sheriff has the authority to relocate prisoners to respond to emergency situations:

> In any case in which an emergency endangering the lives of inmates of a state, county, or city penal or correctional institution has occurred or is imminent, the person in charge of the institution may remove the inmates from the institution. He shall, if possible, remove them to a safe and convenient place and there confine them as long as may be necessary to avoid the danger, or, if that is not possible, may release them.

Other courts, including the Superior Court for the County of Sacramento County, already have ordered the Sheriff to use its authority under Cal. Gov't Code § 8658 to respond to the coronavirus emergency. *See* Order Authorizing Sacramento County Sheriff's Department to Grant Release (Cal. Super. Ct., Sac. Cty., Mar. 25, 2020).

Defendant argues that the Prison Litigation Reform Act ("PLRA") precludes this Court from ordering the release of prisoners. Even assuming this is true, nothing in the

PLRA prohibits a district judge from ordering the transfer of prisoners in response to violations of their constitutional rights, as the district court did in *Brown v. Plata*, 2013 WL 3200587, No. C01-1351 TEH (N.D. Cal. June 24, 2013), nor would it prohibit the Court from ordering the Sheriff to use his authority under § 8658 to transfer prisoners.

"[A]n order to transfer any single inmate out of a prison to correct the violation of a constitutional right" where a "transfer was necessary for the inmate to obtain appropriate medical care" is not a "prisoner release order," but rather a transfer. *Plata v. Brown*, 2013 WL 3200587 at *8. The same is true of "a policy that would result in transfer of a large group of inmates." *Id*. Indeed, several potential courses of action qualify as "transfer" for the purposes of the PLRA. Relocation to halfway houses, for example, is a "transfer" rather than "release." The PLRA defines a "residential reentry center" as a form of "prerelease custody." See 18 U.S.C. § 3624(g)(2)(B) ("A prisoner placed in prerelease custody pursuant to this subsection who is placed at a residential reentry center shall be subject to such conditions as the Director of the Bureau of Prisons [(BOP)] determines appropriate."). Ninth Circuit case law assumes that a person in a "residential reentry center" is a "prisoner" and subject to BOP control. *See, e.g.*, *Bottinelli v. Salazar*, 929 F.3d 1196, 1200 (9th Cir. 2019) (citing 18 U.S.C. § 3624(c)(1) as "requiring that the BOP, 'to the extent practicable, ensure that a prisoner serving a term of imprisonment spends a portion of the final months of that term' in prerelease custody").

In *Plata v. Brown*, the court declined to decide which standard governs the court's review of such requests for transfer, finding that the *Plata* plaintiffs could satisfy the most burdensome standard. That standard "would require [them] to demonstrate that the [transfer] policy must be enforced because failure to do so would result in deliberate indifference under the Eighth Amendment." *Id*. at *10. The Court makes no determination here as to whether Plaintiff has met this standard, but notes that the County's recitation of "aggressive and swift" measures it has taken in response to COVID-19, *none* of which concern jails, suggests that the County's failure to act to protect inmates does indeed constitute deliberate indifference. (Opp. at 16). The County's assurances that it has provided unlimited free soap to prisoners and advised prisoners to remain physically distant—without establishing that it is physically possible to do so—is unlikely to be sufficient to defeat a claim of deliberate indifference (or sufficient to defeat the request to transfer prisoners for health reasons).

In sum, Defendant has failed to demonstrate that it is currently taking adequate precautions to protect the health of the prisoners in the county jails. Plaintiff's request that Defendant be required "to submit a plan to the Court to implement the Governor's order for physical distancing for all Californians housed in the jails" (Motion at 3-4), is therefore GRANTED.

Plaintiffs are instructed to submit a proposed order detailing the findings and outstanding questions from the April 13, 2020 hearing no later than 4:00 p.m. on April 15, 2020. Prior to submission to the Court, Plaintiff shall share the proposed order with Defendant, who may approve the it as to form and content or submit objections to Court thereafter.

IT IS SO ORDERED.